

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

Federal-State Joint Board on Universal Service)	
)	
)	
)	CC Docket No. 96-45
American Cellular Corporation Petition for Agreement with Redefinition of the Service Areas of Certain Rural Incumbent Local Exchange Carriers in the State of Minnesota Pursuant to 47 C.F.R. § 54.207(c))	
)	
)	

**AMERICAN CELLULAR CORPORATION
PETITION FOR AGREEMENT WITH REDEFINITION OF THE SERVICE AREAS
OF CERTAIN RURAL INCUMBENT LOCAL EXCHANGE CARRIERS
IN THE STATE OF MINNESOTA**

L. Charles Keller
WILKINSON BARKER KNAUER, LLP
2300 N Street NW
Suite 700
Washington, D.C. 20037
Telephone: (202) 383-3414
Facsimile: (202) 783-5851

Mark J. Ayotte
Jeffrey A. Abrahamson
BRIGGS AND MORGAN, P.A.
2200 IDS Center
80 South Eighth Street
Minneapolis, Minnesota 55402
Telephone: (612) 977-8400
Facsimile: (612) 977-8650

Its Counsel

February 10, 2006

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SUMMARY

American Cellular Corporation (“ACC”) respectfully requests the Commission’s concurrence with the Minnesota Public Utilities Commission’s (“Minnesota PUC”) redefinition of the service area requirement in certain study areas in connection with its grant of eligible telecommunications carrier (“ETC”) status to ACC.

ACC filed its Verified Petition for designation as a competitive federal ETC with the Minnesota PUC on July 1, 2005.¹ The Minnesota Department of Commerce (“Minnesota DOC”) submitted initial comments supporting the redefinition request on August 4, 2005.² The DOC’s additional comments filed on December 2, 2005 recommended that ACC’s petition, including the requested redefinition of the study areas of two rural ILECs, be granted.³ The Minnesota PUC Staff also recommended granting ACC’s petition and the requested redefinition in briefing papers issued for the Minnesota PUC’s January 19, 2006 meeting.⁴

On February 3, 2006, the Minnesota PUC issued an Order granting ACC’s petition and designating the Company as a competitive ETC throughout substantially all of its commercial

¹ *American Cellular Corporation Petition for Designation as an Eligible Telecommunications Carrier and Redefinition of Rural Telephone Company Service Area Requirement*, MPUC Docket No. PT-6458/M-05-1122, *Verified Petition for Designation as an Eligible Telecommunications Carrier and Redefinition of Rural Telephone Company Service Area Requirement for Certain Service Areas* (July 1, 2005) (“ACC Minnesota Petition”) (attached hereto as “**Exhibit A**”).

² *Comments of the Minnesota Department of Commerce*, Docket No. PT 6458/M-05-1122 (Aug. 4, 2005) (“August 4, 2005 DOC Comments”) (attached hereto as “**Exhibit B**”).

³ *Comments of the Minnesota Department of Commerce*, Docket No. PT 6458/M-05-1122 (Dec. 2, 2005) (“December 2, 2005 DOC Comments”), pp. 10-11 (attached hereto as “**Exhibit C**”).

⁴ Minnesota Public Utilities Commission, *Staff Briefing Papers*, Docket No. PT 6458/M-05-1122, pp. 4-5 (Jan. 19, 2006) (“Minnesota PUC Staff Briefing Papers”) (attached hereto as “**Exhibit D**”).

mobile radio services (“CMRS”) licensed service area.⁵ Finding that ACC’s FCC-licensed service area did not encompass the entire study area of Paul Bunyan Rural Telephone Coop. (SAC 361451) (“Paul Bunyan”) or Red River Rural Telephone Assoc. (SAC 381631) (“Red River”), the Minnesota PUC further determined to redefine the service area requirement from the study area to the individual wire center level to facilitate ACC’s designation in these areas.⁶

As demonstrated below, the Minnesota PUC’s proposed service area redefinition for Paul Bunyan and Red River is consistent with federal law and the Commission’s regulations and decisions. Moreover, redefinition is necessary to further the universal service goals of the Telecommunications Act of 1996 (the “Act”). Accordingly, ACC respectfully requests that the Commission approve the Minnesota PUC’s service area redefinition pursuant to 47 C.F.R. § 54.207(c).

⁵ *American Cellular Corporation Petition for Designation as an Eligible Telecommunications Carrier and Redefinition of Rural Telephone Company Service Area Requirement*, MPUC Docket No. PT-6458/M-05-1122, *Order Granting Eligible Telecommunications Carrier Designation and Redefining Service Area Requirement* (February 3, 2006) (“ACC Minnesota Order”) (attached hereto as “**Exhibit E**”).

⁶ *Id.* at pp. 8-9.

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American Cellular Corporation (“ACC”) respectfully requests the Commission’s concurrence, pursuant to 47 C.F.R. § 54.207(c), with the Minnesota Public Utilities Commission’s (“Minnesota PUC”) redefinition of the service area requirement in certain study areas in connection with its grant of eligible telecommunications carrier (“ETC”) status to ACC. As demonstrated in this Petition, the Minnesota PUC’s service area redefinition is consistent with federal law and the Commission’s regulations and decisions. Accordingly, the public interest will be served by the Commission’s prompt concurrence.

I. BACKGROUND

A carrier designated as a competitive ETC pursuant to Section 214(e) of the Telecommunications Act of 1996 (the “Act”) is required to provide and advertise certain specified services throughout the “service area” for which it has been designated.⁷ The term

⁷ 47 U.S.C. § 214(e)(1)

“service area” means a geographic area established by a State commission (or the Commission under Section 214(e)(6) of the Act)) for the purpose of determining universal service obligations and support mechanisms.⁸ In an area served by a rural ILEC, a competitive ETC’s service area is defined as the rural ILEC’s “study area,” unless and until the Commission and the State commission both agree to redefine the service area requirement to something other than the study area.⁹

The Commission has recognized that requiring a competitive carrier, especially a wireless provider, to conform its designated ETC service area to the study area of a rural ILEC may give the ILEC an unfair competitive advantage.¹⁰ The Commission promulgated 47 C.F.R. § 54.207 to avoid such anti-competitive results. Pursuant to Section 54.207, a State commission may grant ETC designations for a service area that differs from the rural ILEC’s study area.¹¹ Such designations, however, are not effective until this Commission concurs with the State commission’s proposed redefinition.¹²

In granting such designations, the State commission and this Commission are required to consider the Joint Board’s recommendations and explain their rationale for adopting the

⁸ 47 U.S.C. § 214(e)(5).

⁹ 47 U.S.C. § 214(e)(5); 47 C.F.R. § 54.207(b); *Federal-State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd 8776, ¶ 172 n. 434 (1997) (“*Universal Service First Report and Order*”), *subsequent history omitted*.

¹⁰ *Universal Service First Report and Order*, ¶ 185.

¹¹ *Id.*

¹² *Id.*

alternative service area.¹³ In recommending that the study area be retained as the presumptive service area for a rural ILEC, the Joint Board identified the following three factors which must be considered when weighing a request to redefine the service area requirement to something other than the study area: (1) minimizing cream skimming; (2) recognizing that the 1996 Act places rural telephone companies on a different competitive footing from other LECs; and (3) recognizing the administrative burden of requiring rural telephone companies to calculate costs at something other than a study area level.¹⁴ As explained below, the Minnesota PUC considered each of the three Joint Board factors and concluded that granting the proposed redefinition is consistent with each of these factors.

On February 3, 2006, the Minnesota PUC issued an Order designating ACC as a competitive ETC and granting redefinition of the Paul Bunyan Rural Telephone Coop (SAC 361451) (“Paul Bunyan”) study area and the Red River Rural Telephone Assoc. (SAC 381631) (“Red River”) study area.¹⁵ The Minnesota PUC’s redefinition decision was supported by the

¹³ 47 U.S.C. § 214(e)(5); 47 C.F.R. § 54.207(b); *Federal-State Joint Board on Universal Service, Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier In the Commonwealth of Virginia*, CC Docket No. 96-45, *Memorandum Opinion and Order*, 19 FCC Rcd 1563, ¶ 9 (2004) (“*Virginia Cellular*”).

¹⁴ *Virginia Cellular*, ¶ 41 (citing *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Recommended Decision*, 12 FCC Rcd 87, 179-80, ¶¶ 172-74 (1996) (“*Joint Board Recommendations*”)).

¹⁵ *American Cellular Corporation Petition for Designation as an Eligible Telecommunications Carrier and Redefinition of Rural Telephone Company Service Area Requirement*, MPUC Docket No. PT-6458/M-05-1122, *Order Granting Eligible Telecommunications Carrier Designation and Redefining Service Area Requirement* (February 3, 2006) (“*ACC Minnesota Order*”).

analysis and recommendations of the Minnesota Department of Commerce¹⁶ (“Minnesota DOC”) and Minnesota PUC Staff.¹⁷

In the *ACC Minnesota Order*, the Minnesota PUC concluded that ACC was fully qualified to be designated as a competitive ETC and that its designation in areas served by rural ILECs was in the public interest.¹⁸ To effectuate ACC’s ETC designation in the Company’s FCC-licensed portions of the Paul Bunyan and Red River study areas, the Minnesota PUC further determined that the service area requirement should be redefined to the wire center level.¹⁹

Set forth below is a listing of the wire centers in which ACC was conditionally designated as a competitive ETC by the Minnesota PUC subject to the Commission’s concurrence with the proposed redefinition:

Company Name	Wire Center Name	CLLI Code
Paul Bunyan Rural Tel. Coop. (SAC 361451)	Becida	BECDMNXB
	Deer River	DRRVMNXD
	Inger Wirt	INGRMNXI
	LaPorte	LAPTMNXL
	Northome	NOMEMNXN
	Solway	SLWYMNXS
	Squaw Lake	SQLKMNXS
	Turtle River	TRRVMNXT

¹⁶ *August 4, 2005 DOC Comments; December 2, 2005 DOC Comments.*

¹⁷ *Minnesota PUC Staff Briefing Papers.*

¹⁸ *ACC Minnesota Order*, p. 7.

¹⁹ *ACC Minnesota Order*, p. 9. The Minnesota PUC also noted in its analysis that “[n]one of the parties, including Minnesota Independent Coalition (MIC) and Citizens[Telecommunications Company of Minnesota, LLC], the interveners, have objected to ACC’s request to redefine the service area requirement in the exchanges served by Paul Bunyan and Red River.” *Id.*, p. 8.

Company Name	Wire Center Name	CLLI Code
Red River Rural Tel. Assoc. (SAC 381631)	Eabercromb	ABRCNDXA
	East Fairmont	FAMTNDBC

This Commission has held that a State commission’s “first-hand knowledge of the rural areas in question uniquely qualifies it to examine the redefinition proposal and determine whether it should be approved.”²⁰ The Minnesota PUC’s first-hand knowledge of the circumstances of Minnesota rural ILECs and other carriers should thus be given significant weight as the Commission addresses the service area redefinition request made herein.

II. DISCUSSION

A. Redefinition of the Service Area Requirement is Consistent with Federal Universal Service Policy

Congress declared its intent in passing the 1996 amendments to the Act:

To promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies.²¹

Consistent with these goals, the Act specifically contemplates the designation of multiple ETCs, including in areas served by rural ILECs, as being consistent with the public interest. 47 U.S.C. § 214(e)(2). The Commission has long recognized that requiring a competitive carrier, especially a wireless provider, to conform its designated service area to the study area of a rural

²⁰ *Federal-State Joint Board on Universal Service, Highland Cellular, Inc. Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket No. 96-45, *Memorandum Opinion and Order*, 19 FCC Rcd. 6422, 6423, ¶ 2 (rel. Apr. 12, 2004) (“*Highland Cellular*”).

²¹ Pub. L. No. 104-104, 110 Stat. 56 (1996) (emphasis added).

ILEC may act to bar the new telecommunications provider from entering the market, and thus give the ILEC an unfair competitive advantage.²²

That is particularly true in this instance because portions of the Paul Bunyan and Red River study areas lie outside of ACC's FCC-licensed CMRS boundaries. The proposed redefinition is consistent with federal universal service policy as it will promote local competition and enable ACC to bring new services and technologies to customers in rural and high-cost portions of Minnesota who currently have little or no meaningful choice of universal service providers.²³

Federal universal service policy also favors redefinition in instances where a rural ILEC's study area is large or non-contiguous. The Commission has expressly urged State commissions to explore redefinition for purposes of ETC designation where a competitive ETC or wireless carrier might not be able to provide facilities-based service throughout a rural ILEC's entire study area.²⁴ Accordingly, the Commission cautioned that requiring a new entrant to serve a large or non-contiguous service area as a prerequisite to ETC designation would impose a "serious barrier to entry, particularly for wireless carriers" and would be "particularly harmful to

²² *Universal Service First Report and Order*, ¶ 185.

²³ *Virginia Cellular*, ¶¶ 40-45; *Highland Cellular*, ¶¶ 37-42; see also *Washington Utilities & Transportation Commission, et al., Petition for Agreement With Designation of Rural Company Eligible Telecommunications Carrier Service Areas and for Approval of the Use of Disaggregation of Study Areas of the Purpose of Distributing Portable Federal Universal Service Support*, CC Docket No. 96-45, *Memorandum Opinion and Order*, 15 FCC Rcd 9921, ¶ 8 (Com. Car. Bur. 1999).

²⁴ *Universal Service First Report and Order*, ¶ 190.

competition in rural areas, where wireless carriers could potentially offer service at much lower costs than traditional wireline service.”²⁵

The proposed redefinition in this proceeding will promote competition in the Paul Bunyan and Red River study areas by offering customers within ACC’s FCC-licensed service areas a choice in universal service providers. This effort at facilitating competition is consistent with the goals of the Act and this Commission.²⁶

Moreover, the Minnesota PUC has employed its unique position and expertise in analyzing the telecommunications market in Minnesota and determined that redefinition of the service area requirement for purposes of ACC’s ETC designation will benefit Minnesota consumers and will not harm Minnesota rural ILECs.²⁷ Accordingly, the Commission should concur with the Minnesota PUC’s redefinition determination in this proceeding without delay.

B. Redefinition In This Case Satisfies The Three Joint Board Factors

As noted above, the Commission has adopted the three Joint Board factors which should be considered when evaluating a request for service area redefinition.²⁸ The Commission recently reiterated its adherence to these three factors in the March 17, 2005 *ETC Criteria Order*.²⁹ The Minnesota PUC properly considered each of these factors and correctly determined

²⁵ *Id.*

²⁶ *See Virginia Cellular*, ¶ 38.

²⁷ *ACC Minnesota Order*, pp. 8-9.

²⁸ *See, e.g., Highland Cellular*, ¶¶ 38-41 (applying Joint Board’s recommended factors).

²⁹ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Report and Order*, 20 FCC Rcd. 6371, 6403, ¶¶ 73-75 (2005) (“*ETC Criteria Order*”).

that redefinition of the service area requirement to the wire center level in this instance is consistent with these factors.³⁰

1. Redefinition Will Not Result in Cream Skimming

The first factor to consider is whether an ETC applicant is selectively seeking designation in only the low-cost, high-support portion of a rural ILEC's study area, a process known as "cream skimming." The Commission has noted that if a competitor were required to serve a rural ILEC's entire study area, the risk of "cream skimming" would be eliminated because a competitive ETC would be prevented from selectively targeting service only to the lowest cost exchanges of the rural ILEC's study area.³¹ As the Joint Board has explained:

We note that some commenters argue that Congress presumptively retained study areas as the service area for rural telephone companies in order to minimize "cream skimming" by potential competitors. Potential "cream skimming" is minimized because competitors, as a condition of eligibility, must provide services throughout the rural telephone company's study area. Competitors would thus not be eligible for universal service support if they sought to serve only the lowest cost portions of a rural telephone company's study area.³²

This Commission has virtually eliminated the risk of unintentional cream skimming by implementing the disaggregation mechanisms set forth in 47 C.F.R. § 54.315. Accordingly, rural ILECs have the option to disaggregate federal universal service support to higher cost portions of their study areas. Here, both Paul Bunyan and Red River have elected to forgo disaggregation of universal service support within their respective study areas.

In this case, the Minnesota PUC's determination to redefine the service area requirement expressly took into account any cream skimming concerns. In its petition for ETC designation,

³⁰ *ACC Minnesota Order*, pp. 8-9.

³¹ *Universal Service Order*, 12 FCC Rcd at 8881-82.

³² *Joint Board Recommendations*, ¶ 172.

ACC conducted a population density analysis, as endorsed by this Commission, to assess any risk of unintended cream skimming.³³ ACC's population density analysis further demonstrates that no inadvertent effects of cream skimming will result from the requested redefinition as ACC sought designation in the less densely populated wire centers of the Paul Bunyan and Red River study areas.³⁴ The Minnesota DOC investigated ACC's redefinition request and concluded it "does not appear to be deliberately 'cream-skimming'"³⁵ and found "no evidence that the population densities of the portions of each exchange in which ACC proposes to serve as an ETC, are significantly higher (and hence presumably lower-cost) or significantly different, from those portions of each exchange which ACC proposes to exclude from its service area."³⁶ Likewise, Minnesota PUC Staff's analysis concluded,

Staff agrees with the DOC and ACC that the proposed redefinition on individual wire centers of Paul Bunyan and Red River is consistent with the Commission's previous decisions in similar cases as well as with the FCC's recent rulings on the subject. Thus, Staff also recommends approval of the Company's redefinition proposal.³⁷

³³ *ACC Minnesota Petition*, pp. 23-24.

³⁴ The population density analysis shows a population of 4.71 persons per square mile in the Paul Bunyan and 4.73 persons per square mile in the Red River areas in which ACC sought ETC designation as compared to a population of 5.23 persons per square mile in the Paul Bunyan and 7.77 persons per square mile in the Red River areas in which ACC did not seek ETC designation. *ACC Minnesota Petition*, Attachments 7 and 8.

³⁵ *August 4, 2005 DOC Comments*, p. 16.

³⁶ *August 4, 2005 DOC Comments*, p. 17.

³⁷ *Minnesota PUC Staff Briefing Papers*, p. 4.

The Minnesota PUC reviewed the record evidence before it and concluded that ACC's request for redefinition did not create a risk of intentional cream skimming.³⁸ The Minnesota PUC stated:

Based on the record established in this case, the Commission finds that ACC's request for redefinition does not create a risk of either intentional cream skimming or any unintentional effects of cream skimming.³⁹

Consequently, the Minnesota PUC stated it would "support [ACC's] petition to the FCC to concur in the redefinition of the service areas of Paul Bunyan Rural Telephone Cooperative and Red River Rural Telephone Association to the individual wire center level."⁴⁰

2. Redefinition Does Not Affect the Unique Regulatory Status of the Rural ILECs

The second factor to consider is the impact on the rural ILEC whose service area is to be redefined. The Minnesota PUC's determination to redefine the service area requirement in this proceeding will not affect the unique regulatory status of the rural ILECs. As the Commission concluded in *Virginia Cellular*:

[O]ur decision to redefine the service areas of the affected rural telephone companies includes special consideration for the affected rural carriers. Nothing in the record convinces us that the proposed redefinition will harm the incumbent rural carriers. The high-cost universal service mechanisms support all lines served by ETCs in rural areas. Under the Commission's rules, receipt of high-cost support by Virginia Cellular will not affect the total amount of high-cost support that the incumbent rural telephone company receives. Therefore, to the extent that Virginia Cellular or any future competitive ETC captures incumbent rural telephone company lines, provides new lines to currently unserved customers, or

³⁸ *ACC Minnesota Order*, p. 9.

³⁹ *ACC Minnesota Order*, p. 9.

⁴⁰ *ACC Minnesota Order*, p. 9. The Minnesota PUC also noted in its analysis that "[n]one of the parties, including Minnesota Independent Coalition (MIC) and Citizens[Telecommunications Company of Minnesota, LLC], the interveners, have objected to ACC's request to redefine the service area requirement in the exchanges served by Paul Bunyan and Red River." *Id.*, p. 8.

provides second lines to existing wireline subscribers, it will have no impact on the amount of universal service support available to the incumbent rural telephone companies for those lines they continue to serve. Similarly, redefining the service areas of the affected rural telephone companies will not change the amount of universal service support that is available to these incumbents.⁴¹

Nothing in the service area redefinition process affects Paul Bunyan's or Red River's statutory exemptions from interconnection, unbundling and resale requirements under Section 251(c) of the Act. Further, redefining the rural ILECs' service areas as requested herein will not compromise or impair the incumbents' unique regulatory treatment under Section 251(f) of the Act. Even after the service area requirement is redefined for purposes of designating ACC as a competitive ETC, the rural ILECs will still retain the statutory exemptions from interconnection, unbundling and resale requirements under Section 251(c).

Additionally, the redefinition process does not affect the way in which Paul Bunyan or Red River calculates its embedded costs or the amount of per-line support it receives. "Under the Commission's rules, receipt of high-cost support by [a competitive ETC] will not affect the total amount of high-cost support that the incumbent rural telephone company receives."⁴² Rather, the redefinition process only modifies the service area requirement for purposes of designating a competitive ETC. Thus, the incumbents will retain their unique regulatory status as rural ILECs under the Act consistent with the Joint Board's recommendations.

Consistent with this analysis, the Minnesota PUC correctly determined that the proposed redefinition "will have no effect upon Paul Bunyan's or Red River's regulatory status."⁴³

⁴¹ *Virginia Cellular*, ¶ 43 (internal footnotes omitted).

⁴² *Virginia Cellular*, ¶ 43; *see also Highland Cellular*, ¶ 40.

⁴³ *ACC Minnesota Order*, p. 9.

Accordingly, the Commission's concurrence with the Minnesota PUC's proposed redefinition will have no effect on the unique regulatory status enjoyed by the rural ILECs.

3. Redefinition Does Not Create Any Administrative Burdens

The third and final factor to consider is whether any administrative burdens may result from the redefinition of the service area requirement. A rural ILEC's universal service support payments are currently based on the company's embedded costs determined at the study area level.⁴⁴ As the FCC concluded in *Virginia Cellular*:

[R]edefining the rural telephone company service areas as proposed will not require the rural telephone companies to determine their costs on a basis other than the study area level. Rather, the redefinition merely enables competitive ETCs to serve areas that are smaller than the entire ILEC study area. Our decision to redefine the service areas does not modify the existing rules applicable to rural telephone companies for calculating costs on a study area basis, nor, as a practical matter, the manner in which they will comply with these rules. Therefore, we find that the concern of the Joint Board that redefining rural service areas would impose additional administrative burdens on affected rural telephone companies is not at issue here.⁴⁵

For the same reasons, redefinition of the service area requirement in this case will not impose any administrative burdens on Paul Bunyan or Red River. The Minnesota PUC agreed, concluding that redefinition of the Paul Bunyan and Red River study areas "will not create any administrative burdens" for the rural telephone companies.⁴⁶ Accordingly, the Commission's concurrence with the Minnesota PUC's proposed redefinition will not create any additional administrative burdens and should, therefore, be approved without delay.

⁴⁴ *Universal Service First Report and Order*, ¶ 189.

⁴⁵ *Virginia Cellular*, ¶ 44.

⁴⁶ *ACC Minnesota Order*, p. 9.

III. CONCLUSION

For the reasons stated herein, ACC respectfully requests that the Commission concur in the Minnesota PUC's proposed redefinition of the Paul Bunyan and Red River service areas from the study area level to the individual wire center level.

Respectfully submitted,

Dated: February 10, 2006

AMERICAN CELLULAR CORPORATION

By: /s/
L. Charles Keller
WILKINSON BARKER KNAUER LLP
2300 N Street, NW
Suite 700
Washington, D.C. 20037
Telephone: (202) 383-3414
Facsimile: (202) 783-5851
ckeller@wbklaw.com

Mark J. Ayotte
Matthew A. Slaven
BRIGGS AND MORGAN, P.A.
2200 IDS Center
80 South Eighth Street
Minneapolis, Minnesota 55402
Telephone: (612) 977-8400
Facsimile: (612) 977-8650
mayotte@briggs.com

Exhibit A

**American Cellular Corporation's July 1, 2005 Verified Petition for
Designation as an Eligible Telecommunications Carrier and Redefinition of Rural
Telephone Company Service Area Requirement for Certain Service Areas**

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendraye
 Kenneth Nickolai
 Marshall Johnson
 Phyllis A. Reha
 Thomas Pugh

Chair
 Commissioner
 Commissioner
 Commissioner
 Commissioner

In the Matter of AMERICAN CELLULAR) Docket No. _____
 CORPORATION Petition for Designation as an)
 Eligible Telecommunications Carrier and)
 Redefinition of Rural Telephone Company Service)
 Area Requirement)

**VERIFIED PETITION FOR DESIGNATION AS AN
 ELIGIBLE TELECOMMUNICATIONS CARRIER AND
 REDEFINITION OF RURAL TELEPHONE COMPANY SERVICE AREA
 REQUIREMENT FOR CERTAIN SERVICE AREAS**

1. American Cellular Corporation ("ACC" or the "Company") submits this Petition for designation as an eligible telecommunications carrier ("ETC") and for redefinition of the service area requirement, pursuant to 47 U.S.C. § 214(e) of the Communications Act of 1996 (the "Act"), 47 U.S.C. § 151 *et seq.*, Part 54 of the Federal Communications Commission's ("FCC") rules and regulations governing universal service, and Minn. Rule 7811.1400.

2. ACC is licensed and provides wireless telecommunications services throughout certain rural and non-rural telephone company areas in Minnesota, including the requested ETC service areas ("Service Areas") described herein. Each of these Service Areas is more fully identified on Attachment 1 and Attachment 2. Specifically, Attachment 1 sets forth a listing of non-rural telephone company wire centers, rural telephone company study areas that ACC serves in their entirety, and rural telephone company wire centers that ACC serves that have already been redefined to the wire center level. Set forth on Attachment 2 is a listing of rural telephone company wire centers served by ACC which are subject to the request for redefinition. ACC seeks immediate designation as a competitive federal ETC for purposes of qualifying to receive

federal universal service support in the non-rural telephone company wire centers, rural telephone company study areas, and rural telephone company wire centers set forth on Attachment 1. ACC also seeks conditional designation as a competitive federal ETC in the individual rural telephone company wire centers set forth on Attachment 2 pending approval of the Company's request for redefinition of the service areas requirement by the Minnesota Public Utilities Commission ("Commission") and the FCC.

3. As demonstrated below, and as certified in Attachment 3 to this Petition, ACC meets all of the statutory and regulatory prerequisites for designation as an ETC throughout its requested ETC Service Areas. The Commission should, therefore, promptly grant ACC's Petition.

I. BACKGROUND

4. Pursuant to Minn. Rule 7811.1400, subp. 4(A), ACC states its name, address, telephone number, and designated contact person as follows:

American Cellular Corporation
Attention: Thomas A. Coates, Vice President, Corporate Development
14201 Wireless Way
Oklahoma City, Oklahoma 73134-2512
Telephone: (405) 528-8500
Facsimile: (405) 320-1112

5. ACC is licensed by the FCC to provide commercial mobile radio service ("CMRS"). Nationally, ACC provides CMRS in portions of Kentucky, Michigan, Minnesota, New York, Ohio, Oklahoma, Pennsylvania, West Virginia, and Wisconsin. As of March 2005, ACC provided service to more than 685,000 subscribers. In August 2003, ACC became a wholly-owned, indirect subsidiary of Dobson Communications Corporation, and the consolidated company now serves 1.6 million wireless subscribers in 16 States, making it the largest independent rural wireless provider in the United States. ACC has also been designated

by the Wisconsin Public Service Commission to serve as a competitive ETC throughout portions of that State.

6. In Minnesota, ACC is currently licensed and provides CMRS in the following areas: MN RSA 2, MN RSA 3, MN RSA 4, MN RSA 5, MN RSA 6, and Duluth MSA. These service areas include the following Minnesota Counties or portions thereof: Aitkin, Becker, Beltrami, Big Stone, Carlton, Cass, Cook, Crow Wing, Douglas, Grant, Hubbard, Isanti, Itasca, Kanabec, Koochiching, Lake, Mille Lacs, Morrison, Otter Tail, Pine, Pope, St. Louis, Stevens, Swift, Todd, Traverse, Wadena, Wilkin.

7. Specific information regarding ACC's signal coverage within the areas for which ETC designation is requested in this docket is provided in Attachment 4, which contains the Company's coverage maps for each of the requested ETC Service Areas.

8. ACC offers digital voice and digital feature services to its customers through its existing Time Division Multiple Access ("TDMA") digital network. In addition, ACC recently upgraded to a Global System for Mobile Communications ("GSM") and General Packet Radio Service ("GPRS") digital network, which enables ACC to offer enhanced data services to its customers.

9. ACC offers its customers high-quality wireless telecommunications services and is committed to providing exceptional customer service as demonstrated by its adoption of the CTIA Consumer Code for Wireless Service, which sets forth certain principles, disclosures, and practices for the provision of wireless services.¹

II. JURISDICTION

10. As a CMRS provider, ACC's provision of wireless telecommunications services is licensed and regulated by the FCC. However, under 47 U.S.C. § 214(e)(2) and Minn. Rule

¹ See www.ctia.org/wireless_consumers/consumer_code/index.cfm.

7811.1400, subp. 2, the Commission has the jurisdiction and authority to designate ACC as an ETC in its requested ETC Service Areas. Further, the Commission has the jurisdiction and authority to grant ACC's request for redefinition of the service area requirement.²

11. As a provider of CMRS, ACC is not regulated by the Commission. Although the Commission's rules refer only to designation of CLECs, *i.e.*, regulated carriers, the Commission has designated other CMRS providers as ETCs.³ Accordingly, ACC requests a permanent variance of a portion of Minn. Rule 7811.1400, subp. 2 restricting an ETC designation to a "competitive local exchange carrier."

III. CRITERIA FOR ETC DESIGNATION

12. To qualify for ETC designation under 47 U.S.C. § 214(e)(1), 47 C.F.R. § 54.201, and Minn. Rules 7811.0100, subp. 15, a carrier must meet the following requirements:

- (a) the Company is a "common carrier" under federal law;
- (b) the Company offers or will be able to offer the supported services using its own facilities, or a combination of its own facilities and resale of another carrier's services;
- (c) the Company will advertise the availability and charges for the supported services using media of general distribution; and
- (d) the Company will provide the supported services throughout its designated ETC service areas upon reasonable request.

13. Section 54.101(a)(1)-(a)(9) of the FCC's Rules require that an ETC provide the following services or functionalities as the supported services:

- (a) voice-grade access to the public switched telephone network;
- (b) local usage;

² 47 U.S.C. § 214(e)(5); 47 C.F.R. § 54.207(b)-(c).

³ See, e.g., *In the Matter of Midwest Wireless Communications, LLC, for Designation as an Eligible Telecommunications Carrier (ETC) Under 47 U.S.C. § 214(e)(2)*, Docket No. PT-6153/AM-02-686, Order Granting Conditional Approval and Requiring Further Filings (March 19, 2003) ("Midwest Wireless Order"); *RCC Order, In the Matter of Minnesota Cellular Corporation's Petition for Designation as an Eligible Telecommunications Carrier*, Docket No. P-5695/M-98-1285 (Oct. 27, 1999) ("Western Wireless ETC I Order"); *In the Matter of WWC Holding Co., Inc. d/b/a CellularOne for Designation as an Eligible Telecommunications Carrier and Redefinition of Rural Telephone Company Service Area Requirement*, Docket No. P-5695/M-04-226, Order Approving Petition for ETC Designation (Aug. 9, 2004) ("Western Wireless ETC II Order").

- (c) dual-tone multi-frequency ("DTMF") signaling or its functional equivalent;
- (d) single-party service or its functional equivalent;
- (e) access to emergency services;
- (f) access to operator services;
- (g) access to interexchange service;
- (h) access to directory assistance; and
- (i) toll limitation for qualifying low-income consumers.⁴

14. The Act and the FCC's Rules define "service area" as a geographic area established by the Commission for purposes of determining universal service obligations and support. In an area served by an incumbent non-rural telephone company, the Commission may designate a competitive ETC for a service area that is smaller than the contours of the incumbent carrier's study area.⁵

15. In an area served by a rural telephone company, "service area" is defined as the incumbent carrier's entire "study area," unless and until the Commission and FCC cooperatively redefine the service area requirement to something less than the study area. 47 U.S.C. § 214(e)(5), 47 C.F.R. § 54.207(b).

16. Consistent with the public interest, convenience, and necessity, a competitive ETC may be designated in any area served by a non-rural telephone company so long as the applicant meets the requirements of 47 U.S.C. § 214(e)(1). Before designating a competitive ETC in an area served by a rural telephone company, the Commission must also find that the designation satisfies the "public interest" requirement set forth in 47 U.S.C. § 214(e)(2).

⁴ 47 C.F.R. § 54.101(a)(1)-(a)(9).

⁵ *In the Matter of Federal-State Joint Board on Universal Service, Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket No. 96-45, *Memorandum Opinion and Order*, FCC 03-338, ¶ 39 n.114 (rel. Jan. 22, 2004) ("*Virginia Cellular Order*"); *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Report and Order*, FCC 97-157, ¶¶ 184-185 (rel. May 8, 1997) ("*Universal Service Order*").

IV. ACC SATISFIES EACH OF THE REQUIREMENTS FOR DESIGNATION AS A COMPETITIVE ETC

17. A telecommunications carrier utilizing any technology, including wireless technology, is eligible to receive federal universal service support if the customer meets the requirements established under 47 U.S.C. § 214(e)(1). As demonstrated below, ACC satisfies each of these requirements. ACC operates as a common carrier, provides each of the nine supported services established by the FCC, and will offer and advertise the availability of, and charges for, such services throughout its designated Service Areas. Finally, ACC's designation as a competitive ETC will serve the public interest.

A. ACC is a Common Carrier

18. The first requirement for ETC designation is that the applicant is a common carrier.⁶ A common carrier is defined by the Act as "any person engaged as a common carrier for hire, in interstate or foreign communications by wire or radio."⁷ The FCC has determined that CMRS providers are common carriers under federal law.⁸ Therefore, ACC meets the federal definition of common carrier for purposes of ETC designation.

B. ACC Provides Each of the Nine Supported Services

19. The second requirement for ETC designation is that the applicant be capable of and committed to providing each of the nine (9) supported services upon designation.⁹

20. ACC currently provides the supported services set forth in 47 C.F.R. § 54.101(a)(1)-(9) over its existing network infrastructure in Minnesota as follows:

- (a) Voice Grade Access: The FCC has determined that voice grade access to the public switched telephone network means the ability to make and receive calls

⁶ 47 U.S.C. § 214(e)(1).

⁷ 47 U.S.C. § 153(10).

⁸ See 47 C.F.R. § 20.9(a)(7).

⁹ 47 U.S.C. § 214(e)(1)(A).

with a minimum bandwidth of 300 to 3500 Hertz.¹⁰ Through its interconnection agreements with various ILECs, ACC's customers are currently able to make and receive calls on the public switched telephone network within the FCC's specified frequency range.

- (b) Local Usage: "Local usage" means an amount of minutes of use of exchange service, as prescribed by the FCC, provided free of charge to end users.¹¹ The FCC has determined that a wireless carrier's inclusion of local usage in a variety of service offerings satisfies the obligation to provide local usage.¹² ACC will include local usage in all of its service offerings.
- (c) Dual Tone Multi-Frequency Signaling or Its Functional Equivalent: "Dual Tone Multi-Frequency" ("DTMF") is a method of signaling that facilitates the transportation of call set-up and call detail information.¹³ The FCC has recognized that "wireless carriers use out-of-band signaling mechanisms [It] is appropriate to support out-of-band signaling mechanisms as an alternative to DTMF signaling."¹⁴ ACC currently uses out-of-band digital signaling and in-band multi-frequency signaling that is the functional equivalent of DTMF signaling, in accordance with the FCC's requirements.
- (d) Single-Party Service or its Functional Equivalent: The FCC has determined that a CMRS provider meets the requirement of offering single-party service when it offers a dedicated message path for the length of a user's particular transmission.¹⁵ ACC meets the requirement of single-party service by providing a dedicated message path for the length of a user's wireless transmission in all of its service offerings.
- (e) Access to Emergency Service: "Access to emergency service" means the ability to reach a public service answering point ("PSAP") by dialing "911." The FCC also requires that a carrier provide access to enhanced 911 or "E-911," which includes the capability of providing both automatic numbering information ("ANI") and automatic location information ("ALI"), when the PSAP is capable of receiving such information and the service is requested from the carrier.¹⁶ ACC currently provides all of its customers with the ability to access emergency services by dialing "911." ACC is committed to the deployment of E-911 service and will work with the PSAPs within its designated service areas to make E-911 service available according to the FCC's requirements.
- (f) Access to Operator Services: "Access to operator services" means any automatic or live assistance provided to a customer to arrange for the billing or completion,

¹⁰ 47 C.F.R. § 54.101(a)(1).

¹¹ 47 C.F.R. § 54.101(a)(2).

¹² *Virginia Cellular Order*, ¶ 20.

¹³ 47 C.F.R. § 54.101(a)(3).

¹⁴ *Universal Service Order*, ¶ 71.

¹⁵ 47 C.F.R. § 54.101(a)(4).

¹⁶ 47 C.F.R. § 54.101(a)(5).

or both, of a telephone call.¹⁷ ACC meets this requirement by providing all of its customers with access to operator services provided either by ACC or third parties.

- (g) Access to Interexchange Service: "Access to interexchange service" means the ability to make and receive toll or interexchange calls.¹⁸ ACC currently meets this requirement by providing all of its customers with the ability to make and receive interexchange calls. Equal access to interexchange service, *i.e.*, the ability of a customer to access a presubscribed long distance carrier by dialing 1+number, is not required.¹⁹ Nevertheless, ACC acknowledges that the FCC may require a competitive ETC to provide equal access if all other ETCs in the designated service areas relinquish their designations pursuant to Section 214(e)(4) of the Act.
- (h) Access to Directory Assistance: "Access to directory assistance" means the ability to provide access to a service that makes directory listings available.²⁰ ACC currently meets this requirement by providing all of its customers with access to directory assistance by dialing "411" or "555-1212."
- (i) Toll Limitation Services: An ETC must offer "toll limitation" services to qualifying low-income consumers at no charge. FCC Rule 54.400(d) defines "toll limitation" as either "toll blocking" or "toll control" if a carrier is incapable of providing both, but as both "toll blocking" and "toll control" if a carrier can provide both. Toll blocking allows consumers to elect not to allow the completion of outgoing toll calls. Toll control allows consumers to specify a certain amount of toll usage that may be incurred per month or per billing cycle.²¹ ACC is not, at this time, capable of providing toll control. However, ACC is capable of providing toll blocking and offers toll blocking to prospective Lifeline customers in the State in which the Company has been designated an ETC. Once designated as an ETC in Minnesota, ACC will utilize its existing toll-blocking technology to provide the service at no additional charge to requesting Lifeline customers.

C. ACC Will Offer and Advertise the Availability of, and Charges for, the Supported Services Throughout Its Service Areas

21. The third requirement for ETC designation is that an applicant advertise the availability of, and charges for, the supported services using media of general distribution.²²

ACC currently offers and advertises its wireless telecommunications services to customers in

¹⁷ 47 C.F.R. § 54.101(a)(6).

¹⁸ 47 C.F.R. § 54.101(a)(7).

¹⁹ *Universal Service Order*, ¶ 78; 47 U.S.C. § 332(c)(8).

²⁰ 47 C.F.R. § 54.101(a)(8).

²¹ 47 C.F.R. § 54.500(b)-(c).

²² 47 U.S.C. § 214(e)(1)(B).

Minnesota using media of general distribution, including radio, television, billboard, print advertising, and the Internet at www.celloneusa.com. ACC also maintains various retail store locations and sales agents throughout its licensed service areas, which provide an additional source of advertising. A copy of ACC's proposed advertising plan for the requested ETC Service Areas is included as Attachment 5. Once designated as a federal ETC, ACC will advertise the availability of its service offerings and the corresponding rates for those services throughout its Service Areas through media of general distribution in a manner that fully informs the general public. ACC's advertisement of its service offerings will be a part of and integrated into its current advertising for its existing array of services and offerings in a manner that fully complies with federal requirements and ACC commits to such advertisements in the future.

D. ACC Will Provide Services Throughout Its Designated Areas

22. ACC is seeking designation in certain non-rural telephone company wire centers and rural telephone company study areas where the Company provides coverage for the entire study area. In addition, ACC is seeking designation in several rural telephone company study wire centers where the service area requirement has previously been redefined from the study area level to the wire center level.²³ Once a service area has been redefined, the service area requirement is redefined for all other carriers seeking designation within the service area. As

²³ *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket 96-45, *Report and Order*, FCC 05-46, ¶ 76 n. 213 (rel. March 17, 2005) ("March 2005 Order") (redefinition of Citizens Telecom Co., Melrose Tel. Co.; United Telephone Co. of Minnesota); *In the Matter of Cellular Mobile Systems of St. Cloud Petition for FCC Agreement to Redefine the Study Areas of Four Rural Telephone Companies in Minnesota*, CC Docket 96-45, *Petition for Redefinition* (July 2, 2004) (redefinition of Benton Coop. Tel. Co.; Citizens Telecom Co.); *Minnesota Public Utilities Commission for Agreement to Redefine the Service Area of Frontier Communications of Minnesota, Inc.* (November 29, 2000) (redefinition of Frontier Communications of Minnesota, Inc.); *Petition of RCC Minnesota, Inc. and Wireless Alliance, LLC for Redefinition of Rural Telephone Company Service Areas*, CC Docket No. 96-45, *Petition for Redefinition* (August 27, 2004) (redefinition of CenturyTel of Minnesota, Inc.; Loretel Systems, Inc.; Mid-State Tel. Co.; Federated Tel. Coop.; and Twin Valley – Ulen Tel. Co. Inc.).

such, ACC can be designated in these individual wire centers even though the Company does not serve throughout the entire study area.

23. ACC is a facilities-based provider which owns or leases its own facilities within the areas in which the Company is seeking ETC designation. The existing facilities that will be used to provide service in the requested Service Areas include the same CMRS radio frequency, cell site, radio links, trunks and mobile switching centers otherwise used to provide CMRS services in Minnesota. ACC's mobile switching centers used to provide service in the requested Service Areas are located in: Baxter, Minnesota; Caro, Michigan; and Duluth, Minnesota. ACC will not need to construct or obtain any additional network facilities to provide service in response to a reasonable request for service in the Service Areas.

24. Consistent with the obligations of a competitive federal ETC, ACC is committed and able to provide service to all customers within its Service Areas upon reasonable request. To ensure its ability to meet reasonable requests for service, ACC will comply with the service extension commitments previously accepted by the FCC and by this Commission. Thus, ACC commits to provide service as an ETC throughout its Service Areas using its own facilities or, if necessary, a combination of its own facilities and resale of another carrier's services.²⁴ If ACC receives a request for service from a potential customer residing within its ETC Service Area and existing network signal coverage, ACC will provide service on a timely basis. If ACC receives a request for service from a potential customer who resides within its ETC Service Area, but outside the Company's existing signal coverage, ACC will:

- (a) determine whether the customer's equipment can be modified or replaced to provide acceptable service;

²⁴ Although ACC does not currently anticipate having to utilize resale of another carrier's services, it will consider this option in the unlikely event the Company is otherwise unable to provide facilities-based service to requesting customers within its ETC Service Area.

- (b) determine whether a roof-mounted antenna or other network equipment can be deployed at the customer's premises to provide service;
- (c) determine whether adjustments at the nearest cell site can be made to provide service;
- (d) determine whether a cell-extender or repeater can be employed to provide service;
- (e) determine whether there are any other adjustments to network or customer facilities that can be made to provide service;
- (f) explore the possibility of offering the resold services of carriers with facilities available to that location; and/or
- (g) determine whether an additional cell site can be constructed to provide service, and evaluate the costs and benefits of using scarce high-cost support to serve the number of customers requesting service.

25. Finally, if ACC determines that there is no possibility of providing service without constructing a new cell site, it will report to the Commission the proposed cost of construction, the Company's position on whether the request for service is reasonable, and whether high-cost funds should be expended on the request.

26. The Commission has previously accepted these service commitments as sufficient for purposes of ETC designation.²⁵ As such, the Commission should determine ACC's commitment to provide the supported services to any customers within its Service Areas upon reasonable request is sufficient for purposes of ETC designation.

V. DESIGNATING ACC AS AN ETC WILL SERVE THE PUBLIC INTEREST

27. For an area served by a non-rural telephone company, the Commission must find that the designation of a competitive ETC is consistent with the public interest, convenience, and necessity. This standard is met where the applicant satisfies the prerequisites of 47 U.S.C. § 214(e)(1) and can offer consumers a competitive alternative to the incumbent carrier. As discussed above, ACC fully satisfies each of the requirements of 47 U.S.C. § 214(e)(1). In addition, ACC's unique service offerings will provide Minnesota consumers with a true

²⁵ *Midwest Wireless Order*, pp. 5-6; *Western Wireless ETC II Order*, p. 8.

competitive alternative to the incumbent wireline carriers by increasing customer choice and access to innovative services and new technologies.

28. For areas served by rural telephone companies, the Commission must separately find that designating ACC as an additional ETC serves the public interest in accordance with 47 U.S.C. § 214(e)(2).

29. The Commission has previously applied a public interest analysis under 47 U.S.C. § 214(e)(2) considering: (1) whether customers are likely to benefit from increased competition; (2) whether designation of an ETC would provide benefits not available from incumbent carriers; (3) the impact of multiple designations on the federal universal service fund; (4) any commitments made regarding quality services provided by competing providers; and (5) whether customers would be harmed if the incumbent carrier exercised its option to relinquish its ETC designation.²⁶ Following this standard, the Commission should determine that it is in the public interest to designate ACC as an additional ETC.

A. Granting ETC Designation Will Facilitate Competition to the Benefit of Consumers

30. Increased competition can be expected to drive down prices, lead to better service quality, and promote the development of new, innovative services. As determined by the FCC:

We note that an important goal of the Act is to open local telecommunications markets to competition. Designation of competitive ETCs promotes competition and benefits consumers in rural and high-cost areas by increasing customer choice, innovative services, and new technologies. We agree with Western Wireless that competition will result not only in the deployment of new facilities and technologies, but will also provide an incentive to the incumbent rural telephone companies to improve their existing network to remain competitive, resulting in improved service to Wyoming consumers. In addition, we find that the provision of competitive service will facilitate universal service to the benefit of consumers in Wyoming by creating incentives to ensure that quality services are available at "just, reasonable, and affordable rates."

* * *

²⁶ *Midwest Wireless Order*, pp. 7-11; *Western Wireless ETC I Order*, pp. 16-18.

We reject the general argument that rural areas are not capable of sustaining competition for universal service support. We do not believe that it is self-evident that rural telephone companies cannot survive competition from wireless providers. Specifically, we find no merit to the contention that designation of an additional ETC in areas served by rural telephone companies will necessarily create incentives to reduce investment in infrastructure, raise rates, or reduce service quality to consumers in rural areas. To the contrary, we believe that competition may provide incentives to the incumbent to implement new operating efficiencies, lower prices, and offer better service to its customers. . . . ²⁷

31. The Commission has previously determined that granting ETC status to a wireless carrier recognizes the importance of allowing rural consumers a choice of providers for their telecommunications needs.²⁸ Consumers should be able to choose services based on their own needs, and not just the service of the incumbent LEC. Designating ACC as a competitive ETC will allow the consumers in the requested Service Areas to choose their provider based on the price, services, service quality, customer service, and service availability offered by openly competing companies. In addition, with increased competitive choices, Minnesota consumers can expect lower rates and improved service as competition provides an incentive for the incumbent rural telephone companies to invest in new technologies and additional infrastructure.

32. ACC competitively markets a variety of service offerings, and ACC's service plans are offered to rural customers at the same rates offered in urban areas. A listing and description of ACC's service plans that will qualify for universal service support in the requested Service Areas is included as Attachment 6. In addition, ACC will provide a Basic Universal Service offering in the requested Service Areas upon designation with an unlimited amount of

²⁷ *In the Matter of the Federal-State Joint Board on Universal Service, Western Wireless Corp. Petition for Designation as an Eligible Telecommunications Carrier in the State of Wyoming*, CC Docket No. 96-45, Memorandum Opinion and Order, DA 00-2896, ¶¶ 17 & 22 (rel. Dec. 26, 2000) (emphasis added).

²⁸ *Western Wireless ETC I Order*, p. 16.

local usage. The benefits of increased competitive choice for consumers are in the public interest.²⁹

B. Granting ETC Designation Will Provide Benefits Not Otherwise Available

33. ACC's service offerings will provide consumer benefits not otherwise available from the landline LECs.³⁰ The FCC has recognized the specific benefits and advantages of wireless service, including the provision of service to customers who do not have access to wireline service, the mobility of service and the availability of larger local calling areas.³¹ The benefits and advantages of wireless service are particularly important in rural and insular areas, where the FCC has found that the mobility and access to emergency services offered by wireless carriers can mitigate the unique risks of geographic isolation.³²

34. The safety benefits associated with ACC's mobile wireless services are undisputed. The National Telecommunications Cooperative Association ("NTCA") – the “preeminent telecommunications industry organization dedicated exclusively to representing and serving the interests of the nation’s small, rural incumbent local exchange carriers” – recently acknowledged the essential safety benefits of wireless service in its 2004 Rural Youth Telecommunications Survey:

An astonishing 86% of survey respondents said they have their own wireless phone, leaving only 14% without. This penetration rate among rural teens, which is significantly higher than estimations for the youth market on a national level, most likely is attributed to the safety and convenience issues associated with life in small towns. While statistics show that the crime rates in small towns typically are lower than those in urban areas, safety still is a major concern due to the spread-out nature of rural communities, the long distances traveled to go to school or sports activities, and the steady decline of payphones in small communities. When a teen becomes stranded with a flat tire on a rural road at night, a personal,

²⁹ *Midwest Wireless Order*, p. 8; *Virginia Cellular*, ¶ 29.

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

mobile communication device is more than a convenience. It is a safety tool. The fear of scenarios such as this provides much of the push behind wireless penetration in rural youth markets. For this reason, a mobile wireless device increasingly is seen as more of a necessity than a luxury in rural America.

* * *

One might think that teens provide the impetus for subscribing to wireless telephone service. However, further investigation reveals that many don't even have to ask for the phone, but instead are offered the device by their parents, as 60% of survey takers indicated that their parent or guardian pays for the service. Safety issues and the desire to "keep in touch" were the prime motivating factors behind the parental purchases of wireless service.³³

35. Likewise, NTCA acknowledged the critical importance of rural/urban telecommunications parity to long-term economic development as follows:

Rural America is threatened by a "brain drain" — its young people typically go away to college in larger metropolitan areas, and in many cases, leave behind for good their rural homes to live in urban areas after graduation. This loss of an educated labor force could have a potentially dramatic impact on the future viability of rural America. The ability to offer the same state-of-the-art telecommunications services as are available in non-rural areas could play a significant role in increasing the attractiveness and livability of rural communities.³⁴

36. Designating ACC as an ETC in its requested ETC Service Areas will promote competition and provide benefits to consumers, including customer choice and access to innovative services. ACC is well-positioned to offer Minnesota consumers a true competitive alternative to the incumbent telephone companies. ACC is fully committed to providing industry-leading wireless service to its Minnesota customers.

37. ACC has also undertaken an aggressive approach to the improvement and upgrading of its network facilities to provide cutting edge technology to its Minnesota subscribers. The Company operates Time Division Multiple Access (TDMA) technology in

³³ NTCA 2004 Rural Youth Telecommunications Survey, p. 2 & 5 (emphasis added). Available at http://www.ntca.org/content_documents/2004RuralYouthTelecommunicationsSurvey.pdf.

³⁴ *Id.*, p. 1.

100% of its managed networks. In 2004, the Company completed an upgrade to the Global System for Mobile Communications (GSM) networks throughout all markets. ACC now offers the most advanced available array of wireless services, utilizing both TDMA and GSM/GPRS/EDGE wireless technologies. The Company continues to lead the way for the telecommunications industry, now focused on developing 3G services that will provide wireless data services at high speeds.

38. ACC's service offerings will benefit rural customers in Minnesota who may not have access to telecommunications services, will provide the multiple benefits of mobility (including increased access to emergency services), and will include larger local calling areas than those of the incumbent local exchange carriers. Other benefits and advantages of ACC's service offerings include state-of-the-art network facilities; reduced long-distance rates; competitive pricing; 24-hour customer service; enhanced features, such as voice-mail, caller-ID, call-waiting, and call-forwarding; and high-speed data functions including wireless email and Internet access.

39. The Commission, in previously designating a wireless carrier as a competitive ETC, noted that designating the carrier would further "at least three of the goals underlying federal and state policies favoring competition—customer choice, innovative services, new technologies."³⁵ Designating ACC will continue to further these same Commission-recognized goals. Designating ACC as a competitive ETC will also provide Minnesota consumers in rural and high-cost areas with access to all of the benefits and advantages discussed above and will provide an enhanced ability for consumers to choose their telecommunications provider based on their own needs. Furthermore, all consumers will benefit from ACC's use of universal service

³⁵ *Western Wireless ETC I Order*, p. 16.

support to improve and expand its existing network and, thereby, expand the availability and quality of its services.

C. ACC's Designation Will Not Burden the Federal Universal Service Fund

40. ACC's designation as an additional ETC in this docket will not dramatically impact or burden the federal universal service fund. The FCC has acknowledged that universal service support to competitive ETCs accounts for only a small percentage of the increase in the size of the fund, while disbursements to incumbent carriers continue to substantially increase the size of the fund.³⁶ The FCC has expressly determined that the designation of an additional ETC will not dramatically burden the universal service fund.³⁷ Similarly, this Commission has previously considered the impact of designating a single additional ETC on the universal service fund and determined the impact would be minimal.³⁸ Moreover, the Commission has noted that it would be inequitable for qualified Minnesota providers and Minnesota ratepayers not to derive the benefits of receiving federal universal service support since they are already paying into it.³⁹ As a result, the Commission should follow existing precedent and recognize that any impact on the universal service fund from the designation of ACC as an additional ETC is minimal and not contrary to the public interest.

41. Not only does precedent stipulate that any impact on the universal service fund from the designation of an additional ETC is minimal, but also the best available data concerning

³⁶ *Midwest Wireless Order*, p. 10; *Western Wireless ETC II Order*, p. 7; *Virginia Cellular*, ¶ 31 n. 98.

³⁷ *Virginia Cellular*, ¶ 31; *In the Matter of Highland Cellular, Inc. Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket No. 96-45, Memorandum Opinion and Order, FCC 04-37 ¶ 25 (rel. Apr. 12, 2004) ("*Highland Cellular*") ("we find that grant of this ETC designation will not dramatically burden the universal service fund"); *In the Matter of Advantage Cellular Systems, Inc. Petition for Designation as an Eligible Telecommunications Carrier in the state of Tennessee*, CC Docket No. 96-45, Order, DA 04-3357, ¶ 25 and n. 82 (rel. Oct. 22, 2004) ("*Advantage Cellular*").

³⁸ *Midwest Wireless Order*, p. 11.

³⁹ *Midwest Wireless Order*, pp. 10-11.

ACC's designation in this proceeding confirms such a conclusion. ACC has received no prior universal service support in Minnesota since the Company has not previously been designated in Minnesota. If the Commission grants ACC's Petition, the Company estimates, based on projections by the Universal Service Administrative Company, that it would be eligible to receive approximately \$511,000 per month in high-cost universal service support. This estimate represents approximately 0.15% of the total high-cost support available to all ETCs for the third quarter of 2005.⁴⁰ Accordingly, designating ACC as a competitive ETC throughout its requested Service Areas would have only a minimal impact on the federal universal service fund.⁴¹

D. ACC's Commitment to Service Quality

42. ACC is committed to providing high service quality to its customers consistent with the public interest. Specifically, ACC has adopted and is committed to compliance with the CTIA Code in the areas where it is seeking designation as a competitive ETC. Moreover, ACC commits to reporting to the Commission the number of consumer complaints per 1,000 handsets on an annual basis. The FCC considers such a commitment to fully demonstrate a company's commitment to service quality.⁴²

43. The public interest will also be served by ACC's capability and commitment to meet service requests within a reasonable period of time. In *Virginia Cellular*, the FCC accepted the applicant's specific commitment to follow a multi-step, graduated process to evaluate service

⁴⁰ See Federal Universal Service Support Mechanisms Fund Size Projections for the Third Quarter of 2005, Appendix HC 01 (Universal Service Administrative Company, May 2, 2005) (determining total quarterly high-cost universal service support available to ETCs to be \$1,018,894,249). Available at www.universalservice.org/overview/filings/2005/Q3/.

⁴¹ See, e.g., *In the Matter of Advantage Cellular Systems, Inc. Petition for Designation as an Eligible Telecommunications Carrier in the State of Tennessee*, CC Docket No. 96-45, Order, DA 04-3357, ¶ 25, n. 82 (rel. Oct. 22, 2004) (0.419% increase inconsequential); *In the Matter of NPCR, Inc. d/b/a Nextel Partners Petition for Designation as an Eligible Telecommunications Carrier in the State of Alabama, Florida, Georgia, New York, Pennsylvania, Tennessee, and Virginia*, CC Docket No. 96-45, Order, DA 04-2667, ¶ 21, n. 69 (rel. Aug. 25, 2004) (1.88% increase inconsequential).

⁴² *Virginia Cellular Order*, ¶ 30; *March 2005 Order*, ¶ 28.

requests from an area outside its existing coverage area.⁴³ Virginia Cellular committed to taking the following steps to respond to all reasonable requests for service:

- (1) modifying or replacing the customer's equipment to provide service;
- (2) deploying a roof-mounted antenna or other equipment to provide service;
- (3) adjusting the nearest cell tower to provide service;
- (4) adjusting network or customer facilities to provide service;
- (5) offering resold services from another carrier's facilities to provide service; and
- (6) employing, leasing or constructing an additional cell site, cell extender, repeater or other similar equipment.⁴⁴

44. In addition, the Commission has accepted these same commitments previously in designating a wireless carrier as an ETC.⁴⁵

45. ACC commits to follow the same procedures approved by the Commission and the FCC to provide service to all requesting customers within the Company's Service Areas upon reasonable request.

46. Accordingly, the Commission should find that designating ACC as a competitive ETC will serve the public interest.

E. Customers Will Not Be Harmed By ACC's Designation

47. The Commission has previously considered any risks of harm to consumers caused by an incumbent carrier's decision to relinquish its ETC designation.⁴⁶ Any such risk occasioned by the designation of ACC is extremely small, highly speculative and ultimately manageable pursuant to the statutory procedures set forth in 47 U.S.C. § 214(e)(4). Moreover, any relinquishment of ETC status by an incumbent, one thereby forgoing eligibility to receive

⁴³ *Virginia Cellular Order*, ¶ 15.

⁴⁴ *Id.*

⁴⁵ *Western Wireless II ETC Order*, p. 8.

⁴⁶ *Western Wireless ETC I Order*, p. 18.

universal service support, would not relieve the incumbent of carrier of last resort obligations under Minnesota law.⁴⁷

F. No Rural LEC Will Experience Any Significant Adverse Impact from ACC's ETC Designation to Justify Denying Consumers the Benefits of Competition

48. The designation of ACC as an ETC in the requested Service Areas will not result in any significant adverse impact to any rural telephone company. None of the areas in which ACC is seeking designation is incapable of supporting an additional ETC.

49. Under the current federal universal service funding mechanisms, rural telephone companies will continue to receive funding based on an embedded cost methodology until at least 2006. This extended transition period – as well as their continued receipt of implicit subsidies within intrastate access rates – ensures the rural companies can move successfully to competitive markets.

VI. REDEFINITION OF SERVICE AREA REQUIREMENT FOR CERTAIN RURAL TELEPHONE COMPANIES

50. ACC's request for ETC designation in certain rural telephone company areas is subject to the Commission's action to redefine the service area requirement set forth in 47 U.S.C. § 214(c)(5) and 47 C.F.R. § 54.207(b). Specifically, ACC requests that the Commission redefine the service area requirement for purposes of facilitating its designation in the areas served by Paul Bunyan Rural Telephone Coop. ("Paul Bunyan") and Red River Rural Telephone Assoc. ("Red River"). Because of the limitations of its FCC license to provide wireless service, ACC is able to serve certain wire centers within each of these companies' study areas, but is not able to serve the entire study area of each of these companies. Absent redefinition of the service area requirement, ACC would be prohibited from being designated as a competitive ETC in any of

⁴⁷ *Id.*

the wire centers within the Paul Bunyan and Red River study areas where it can serve today. The specific wire centers for which designation is requested are set forth in Attachment 2.

51. As discussed above, the Act and the FCC's rules provide that the service area of a rural telephone company shall be the "study area" of the rural telephone company, until and unless the FCC and the State commission agree to redefine the service area.⁴⁸ In order to redefine the service area requirement, both the Commission and the FCC are required to give full consideration to three factors set forth in recommendations made by the Federal-State Joint Board on Universal Service ("Joint Board"). The three Joint Board considerations include: (1) the risk that an ETC applicant will seek designation only in low-cost, high-support areas, a practice referred to as "cream skimming;" (2) any effect redefinition may have on the rural telephone company's regulatory status; and (3) any additional administrative burdens that may result from redefinition.

A. ACC's Request for Redefinition Does Not Create a Risk of Either Intentional Cream Skimming or Any Unintentional Effects of Cream Skimming

1. ACC is Not Engaging In Intentional Cream Skimming

52. ACC is seeking ETC designation in each wire center of Paul Bunyan and Red River fully located within its FCC-licensed boundaries, subject to redefinition of the service area requirement. ACC is seeking redefinition only in areas where it is not licensed by the FCC to serve the entire study area of these rural telephone companies. In areas where ACC is requesting redefinition, the Company is seeking redefinition of the service area from the study area to the full wire center level.⁴⁹

⁴⁸ 47 U.S.C. § 214(e)(5); 47 C.F.R. § 54.207(b).

⁴⁹ ACC is not seeking redefinition to the partial wire center level. The FCC addressed and declined to grant partial wire center redefinition in *Highland Cellular*. Because all of the wire centers for which ACC is seeking designation are located entirely within its FCC-licensed service area boundaries, the concern addressed in *Highland Cellular* are not present here.

53. The FCC has expressly rejected the argument that a wireless carrier seeking ETC designation in the wire centers within its FCC-licensed boundaries is engaging in intentional cream skimming.⁵⁰ In other words, cream skimming concerns are eliminated because ACC has not specifically picked the areas in which it will serve, but instead seeks to serve all possible areas, limited only by its FCC's wireless license. Since ACC is seeking designation for all wire centers entirely located within the scope of its licensed boundaries in each study area, the Commission should conclude there is no evidence of any intentional cream skimming.

2. **ACC's Designation Will Not Result in Any Effect of Cream Skimming**

54. The FCC has noted that in certain situations, an ETC applicant's request for redefinition could – through no fault of the applicant – have the unintended effect of cream skimming in particular rural telephone company study areas.⁵¹

55. However, the risk of cream skimming has been virtually eliminated by the FCC's implementation of the disaggregation mechanism set forth in 47 C.F.R. § 54.315. The FCC offered rural telephone companies the option to “disaggregate” – *i.e.*, target – the federal universal service support amounts they receive to the higher-cost portions of their study areas. In so doing, rural telephone companies were given the opportunity to target support to ensure that a competitive ETC would receive less per-line support in low-cost areas and, conversely, to ensure that a competitive ETC would only receive higher per-line support in truly high-cost portions of their study areas. The FCC has concluded that the disaggregation mechanism has “substantially eliminated” any cream skimming concerns.⁵²

⁵⁰ *Virginia Cellular*, ¶ 32.

⁵¹ *Virginia Cellular*, ¶ 33.

⁵² *In the Matter of Federal-State Joint Board on Universal Service Petitions for Reconsideration of Western Wireless Corporation's Designation as an Eligible Telecommunications Carrier in the State of Wyoming*, CC Docket No. 96-45, *Order on Reconsideration*, FCC 01-311 ¶ 12 (rel. Oct. 19, 2001).

56. A rural telephone company's choice not to target support indicates that the company does not perceive the risk of cream skimming to be of concern within its study area.⁵³ Neither Paul Bunyan nor Red River has chosen to disaggregate support. The Commission should, therefore, conclude there are no cream skimming concerns in the areas for which ACC requests redefinition.

57. The FCC also conducts a population density analysis as a proxy to assess the risk of unintentional cream skimming. A population density analysis compares the population density of the wire centers where ETC designation is requested to the population density of the wire centers where ETC designation is not requested.⁵⁴ In this instance, results of a population density analysis confirm that the effects of cream skimming will not occur as a result of ACC's designation in the Paul Bunyan and Red River areas.

58. Using publicly available information regarding the geographic area and population of each wire center, ACC has calculated the population density per square mile for the Paul Bunyan and Red River areas in which the Company is seeking ETC designation and for the Paul Bunyan and Red River areas in which it is not seeking ETC designation. A table comparing these population densities is included as Attachment 7. Spreadsheets detailing the underlying data, including the area, population, and population density for each wire center within the Paul Bunyan and Red River study areas are included as Attachment 8.

59. The population density analysis set forth in Attachment 7 confirms that no inadvertent effects of cream skimming will result from ACC's redefinition request in this

⁵³ See *In The Matter of the Application of N.E. Colorado Cellular, Inc. to Re-Define the Service Area of Eastern Slope Rural Telephone Association, Inc., Great Plains Communications, Inc., Plains Coop Telephone Association, Inc. and Sunflower Telephone Co., Inc.*, Docket No. 02A-444T, *Decision Denying Exceptions and Motion to Reopen Record*, Decision No. C03-1122, ¶ 38 (Aug. 27, 2003) (decision of rural carriers not to target support "is probative evidence of the carriers' lack of concern with cream skimming").

⁵⁴ *Virginia Cellular*, ¶ 34; *Highland Cellular*, ¶ 28.

proceeding. Specifically, in both the Paul Bunyan and Red River study areas, the population density in the areas for which ACC is seeking designation is lower than the population density in the areas in which ACC is not seeking designation. Therefore, no effects of cream skimming will occur as a result of ACC's designation in these areas.

60. As such, the results of the population density analysis demonstrate that no inadvertent effects of cream skimming will occur as a result of ACC's request for redefinition.

61. Moreover, in the event that there were still concerns regarding the potential effects of cream skimming, Paul Bunyan and Red River retain the option to disaggregate federal universal support amounts they receive to the higher-cost portions of their study areas. Targeting of support through the disaggregation process remains an option to these companies, and the Commission can compel the companies to disaggregate support.⁵⁵ Accordingly, any concerns that may remain regarding the unintended effects of cream skimming can be abated through the disaggregation process.

B. Service Area Redefinition Does Not Affect A Rural Telephone Company's Regulatory Status

62. The Joint Board's second factor that must be considered as part of a redefinition analysis is whether redefinition will have any effect upon the unique status enjoyed by rural telephone companies under the Act. In short, redefinition will have no effect upon Paul Bunyan or Red River's regulatory status as a rural telephone company. Nothing in the service area redefinition process affects a rural carrier's statutory exemptions from interconnection, unbundling and resale requirements under Section 251(c). Redefining the service area requirement as requested herein will not compromise or impair the unique treatment of these companies as rural telephone companies under Section 251(f) of the Act. Even after their service

⁵⁵ See *Virginia Cellular*, ¶ 35 n.112; 47 C.F.R. § 54.315.

areas are redefined for purposes of ETC designations, Paul Bunyan and Red River will still retain the statutory exemptions from interconnection, unbundling and resale requirements under Section 251(c).

63. Additionally, as the FCC recently confirmed, the redefinition process does not affect the way in which the rural telephone companies calculate their embedded costs or the amount of per-line support they receive:

(1) the high-cost universal service mechanisms support all lines served by ETCs in rural areas; (2) receipt of high-cost support by [the applicant] will not affect the total amount of high-cost support that the incumbent rural telephone company receives; (3) to the extent that [the applicant] or any future competitive ETC captures incumbent rural telephone company lines to existing wireline subscribers, it will have no impact on the amount of universal service support available to the incumbent rural telephone companies for those lines they continue to serve; and (4) redefining the service areas of the affected rural telephone companies will not change the amount of universal service support that is available to these incumbents.

* * *

Under the Commission's rules, receipt of high-cost support by [a competitive ETC] will not affect the total amount of high-cost support that the incumbent rural telephone company receives.⁵⁶

64. Rather, the redefinition process only modifies the service area requirement for purposes of designating a competitive ETC. Thus, Paul Bunyan and Red River will retain their unique regulatory status as rural telephone companies under the Act consistent with the Joint Board's recommendations.

C. Redefinition Does Not Create Any Administrative Burdens

65. The third and final factor to consider is whether any administrative burdens will result from the redefinition of the service area requirement. A rural telephone company's universal service support payments are currently based on a rural company's embedded costs

⁵⁶ *Virginia Cellular*, ¶¶ 41, 43; see also *Highland Cellular*, ¶ 40.

determined at the study area level.⁵⁷ The FCC has recently confirmed that redefinition does not affect this calculation or create any additional administrative burdens:

[R]edefining the rural telephone company service areas as proposed will not require the rural telephone companies to determine their costs on a basis other than the study area level. Rather, the redefinition merely enables competitive ETCs to serve areas that are smaller than the entire ILEC study area. Our decision to redefine the service areas does not modify the existing rules applicable to rural telephone companies for calculating costs on a study area basis, nor, as a practical matter, the manner in which they will comply with these rules. Therefore, we find that the concern of the Joint Board that redefining rural service areas would impose additional administrative burdens on affected rural telephone companies is not at issue here.⁵⁸

Just as in *Virginia Cellular*, redefinition of the Paul Bunyan and Red River areas in this proceeding will have no effect on the rural telephone companies' calculation of their costs and will not create any additional burdens.

66. The Commission can, therefore, proceed to redefine the service area requirement as outlined above while appropriately taking into account the three factors noted by the Joint Board and adopted by the FCC. Accordingly, the Commission should act to redefine the service area requirement to the individual wire center level for Paul Bunyan and Red River, as specifically identified on Attachment 2, in order to foster competition and promote the expansion of new telecommunications services in rural and high cost areas of Minnesota.

D. Redefinition is Necessary to Promote Competition and Advance Universal Service

67. Redefinition of the service area standard for Paul Bunyan and Red River is necessary for the promotion of competition and the advancement of universal service. Unless the service area standard is redefined, ACC is precluded from being designated as an ETC in *any* of these rural telephone companies' wire centers because ACC cannot serve the entire study area.

⁵⁷ *Universal Service Order*, ¶ 189.

⁵⁸ *Virginia Cellular*, ¶ 44 (emphasis added).

Redefinition is in the public interest because it will enable ACC, and other competitors, to bring new services and new technologies to customers of these rural telephone companies.

68. A study area requirement creates a disincentive to competition. This type of barrier to entry was appropriately recognized by the WUTC when it successfully applied to the FCC to redefine the service areas for the rural LECs in the State of Washington. The WUTC noted: "The designation of the service area impacts the ease with which competition will come to rural areas The wider the service area defined by the state commission, the more daunting the task facing a potential competitor seeking to enter the market."⁵⁹ The WUTC concluded that smaller service areas for the designation of ETCs in rural areas will promote competition and speed deregulation.⁶⁰

69. The FCC has previously determined that redefinition of the service area from the study area to the wire center basis facilitates local competition by enabling new providers to serve relatively small areas.⁶¹ The FCC noted: "We find that our concurrence with rural LEC petitioners' request for designation of their individual exchanges as service areas is warranted in order to promote competition."⁶² The FCC concluded that Washington's "effort to facilitate local competition justifies [the FCC's] concurrence with the proposed service area designation."⁶³

⁵⁹ *Petition for Agreement With Designation of Rural Company Eligible Telecommunications Carrier Service Areas at the Exchange Level and for Approval of the Use of Disaggregation of Study Areas for the Purpose of Distributing Portable Federal Universal Service Support*, Washington Util. & Transp. Comm'n, Docket No. 970380, at ¶ 3 (Aug. 1998).

⁶⁰ *Id.* at ¶ 9.

⁶¹ *In the Matter of Petition for Agreement With Designation of Rural Company Eligible Telecommunications Carrier Service Areas and for Approval of the Use of Disaggregation of Study Areas of the Purpose of Distributing Portable Federal Universal Service Support*, Memorandum Opinion and Order, CC Docket No. 96-45, DA 99-1844, ¶ 8 (rel. Sept. 9, 1999).

⁶² *Id.*

⁶³ *Id.*

70. Redefinition of service area requirement for Paul Bunyan and Red River to an individual wire center basis will foster competition in Minnesota. Redefining the service area for purposes of determining ACC's ETC service areas will enable ACC to offer competitive universal services to the customers of these rural telephone companies. This fostering of competition comports with the goals of the Act and the FCC's directives. Unless the Commission approves of the redefinition, the customers of these rural telephone companies' wire centers ACC desires to serve will be denied all the benefits of competition that Congress and the FCC have sought to foster. Accordingly, this Commission should order that the service areas of Paul Bunyan and Red River, as identified on Attachment 2, be redefined into service areas on an individual wire center basis for the purpose of designating ACC as a competitive federal ETC in those areas it is licensed to serve.

71. Pursuant to 47 C.F.R. § 54.207, ACC will petition the FCC for concurrence with its service area redefinition in this proceeding.

E. High-Cost Certification

72. Under the FCC's Rules, states that desire ETCs within their jurisdiction to receive high-cost universal service support must file an annual certification with the Universal Service Administrative Company ("USAC") and the FCC stating that all federal high-cost support provided to such carriers will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.⁶⁴ Accordingly, ACC requests that the Commission certify ACC's use of support effective the date of the Company's ETC designation.

73. In order for ACC to receive high-cost universal service support commencing the date of the Company's ETC designation, the Commission may need to supplement its annual

⁶⁴ 47 C.F.R. §§ 54.313(a), 54.314(a).

certification due October 1, 2005, by separately certifying ACC's use of such support. The FCC's Rules provide that state commissions may file supplemental certifications for carriers not subject to the State's annual certification, such as those carriers who were not yet designated as ETCs at the time.⁶⁵ Accordingly, ACC respectfully requests that the Commission supplement its annual certification by separately certifying ACC's use of support and transmitting a letter to the FCC and USAC in the form attached here as Attachment 9.

74. In support of ACC's request, the Company hereby certifies that it will utilize all federal high-cost universal service support it receives on or after the date of its designation as a competitive ETC only for the provision, maintenance, and upgrading of facilities and services for which the support is intended pursuant to 47 U.S.C. § 254(e).

VII. OTHER REQUIRED DISCLOSURES

75. A person wishing to challenge this Petition's form and completeness must do so within ten days of its filing pursuant to Minn. Rule 7811.1400, subp. 6.

76. A person wishing to comment on this Petition must file initial comments within 20 days of its filing pursuant to Minn. Rule 7811.1400, subp. 8. Initial comments must include a recommendation on whether the filing requires a contested case proceedings, expedited proceeding, or some other procedure, together with reasons for the recommendation. *Id.*

77. If a person who wishes to file initial comments is not entitled to intervene in a commission proceeding as of right and desires full party status, the person shall file a petition to intervene pursuant to Minn. Rule 7829.0800, or Minn. Rule 1400.6200 if the matter is before an administrative law judge, before the comment period expires. Minn. Rule. 7811.1400, subp. 9. The intervention petition may be combined with comments on the filing. *Id.*

⁶⁵ 47 C.F.R. §§ 54.313(c), 54.314(c).

77. If a person who wishes to file initial comments is not entitled to intervene in a commission proceeding as of right and desires full party status, the person shall file a petition to intervene pursuant to Minn. Rule 7829.0800, or Minn. Rule 1400.6200 if the matter is before an administrative law judge, before the comment period expires. Minn. Rule. 7811.1400, subp. 9. The intervention petition may be combined with comments on the filing. *Id.*

78. Commenting parties have ten days from the expiration of the original comment period to file reply comments. Minn. Rule 7811.1400, subp. 10. Reply comments must be limited in scope to the issues raised in the initial comments. *Id.*

VIII. CONCLUSION

79. Based on the foregoing, ACC respectfully requests that the Commission promptly grant this Petition and designate ACC as an ETC for the purposes of receiving federal universal support in Minnesota. Further, ACC requests that the Commission act to redefine the service area requirement in the Paul Bunyan and Red River service areas.

Dated: July 1st, 2005

Respectfully submitted,

BRIGGS AND MORGAN, P.A.

By 

Mark J. Ayotte (MN #166315)

Casey Erin Jarchow (MN #0328777)

2200 IDS Center

80 South Eighth Street

Minneapolis, Minnesota 55402

(612) 977-8400

(612) 977-8650 (facsimile)

**ATTORNEYS FOR
AMERICAN CELLULAR CORPORATION**

ATTACHMENT 1

**Non-Rural Wire Centers, Rural Telephone Company Study Areas, and Previously
Redefined Rural Telephone Company Wire Centers for which ACC is Seeking Designation**

Non-Rural Telephone Company

Non-Rural Telephone Company	Wire Center Name	CLLI Code
Qwest	Appleton	APPLMNAP
	Barnum	BRNMMNBA
	Brainerd	BRNRMNBR
	Battle Lake	BTLKMNBA
	Buhl	BUHLMNBU
	Biwabik	BWBKMNBI
	Chisholm	CHSHMNCS
	Grand Rapids	CHSTMNCH
	Cloquet	CLQTMNCA
	Coleraine	CLRNMNCO
	Cambridge	CMBRMNCA
	Cook	COOKMNCO
	Carlton	CRTOMNCB
	Cass Lake	CSSLMNCL
	Duluth	DLTHMNAF
	Duluth	DLTHMNCB
	Duluth	DLTHMNDB
	Duluth	DLTHMNLA
	Duluth	DLTHMNME
	Duluth	DLTHMNPL
	Detroit Lakes	DTLKMNDL
	Virginia	EVLTMNEV
	Silver Bay	FNLDMNFO
	Fergus Falls	FRFLMNFB
	Grand Marais	GDMRMNGM
	Grand Rapids	GDRPMNGR
	Glenwood	GLWDMNGL
	Hibbing	HBNGMNHI
	Hinckley	HNCKMNHI
	Henning	HNNGMNHE
	Duluth	ISLKMNIL
	Keewatin	KEWTMNKE
	Little Falls	LTFLMNLF
	Moose Lake	MOLKMNML
	Mora	MORAMNMO
	Marble	MRBLMNMA
	Morris	MRRSMNMO
	Virginia	MTIRMNMI

Non-Rural Telephone Company	Wire Center Name	CLLI Code
	Nashwauk	NSHWMNNA
	Nisswa	NSSWMNNI
	Ogilvie	OGLVMNOA
	Ortonville	ORVLMNOR
	Pine City	PNCYMNPC
	Royalton	RYTNMNRN
	Silver Bay	SLBAMNSA
	Sandstone	SNDSMNSA
	Staples	SPLSMNST
	Swanville	SWVLMNSV
	Tofte	TOFTMNTB
	Virginia	VRGNMNV
	Bemidji	WADNMNWA
	Breckenridge	WHTNNDDB

Rural Telephone Company Study Areas and Previously Redefined Rural Telephone Company Wire Centers

Rural Telephone Company	Study Area/Wire Center Name	CLLI Code
Arrowhead Comm. Corp.	Full Study Area	Full Study Area
Arvig Tel. Co.	Full Study Area	Full Study Area
Benton Coop. Tel. Co.*	Bock	BOCKMNXB
Blackduck Tel. Co.	Full Study Area	Full Study Area
Callaway Tel. Co.	Full Study Area	Full Study Area
CenturyTel of Minnesota, Inc.*	Beardsley Clinton Campbell Graceville Gunflint Trail Hill City Hovland Orr Pierz	BRDSMNXA CLTNMNXA CMPBMNXA GCVLMNXA GNTRMNXA HLCYMNXA HVLDMNXA ORR MNXA PIRZMNXA
CenturyTel of Northwest Wisconsin, Inc.	Full Study Area	Full Study Area

Rural Telephone Company	Study Area/Wire Center Name	CLLI Code
Citizens Tel. Co. of Minnesota d/b/a Frontier Comm. Of Minnesota*	Alborn	ALBOMNXXB
	Askov	ASKVMNXXB
	Aurora	AURRMNXXA
	Babbitt	BBTTMNXXB
	Big Falls	BGFSMNXXB
	Brookstone	BKTNMNXXB
	Bear River	BRRVMNXXB
	Brimson	BRSNMNXXB
	Crane Lake	CNLKMNXXB
	Cromwell	CRWLMNXXC
	Denham	DNHMMNXXD
	Ely	ELY MNXE
	Embarrass	EMBRMNXXE
	Ericsburg	ERBGMNXXE
	Floodwood	FLWDMNXXF
	Finlayson	FNSNMNXXF
	Greaney	GRNYMNXXG
	Garrison	GRSNMNXXG
	Gateway	GTWYMNXXG
	Herman	HRMNMNXXA
	Hoyt Lakes	HYLKMNXH
	International Falls	INFLMNXI
	Isabella Isle	ISBLMNXI
	Isle	ISLEMNXI
	Jacobson	JCBSMNXXJ
	Kabetogama	KBTGMNXXN
	Kimberly	KMBRMNXXK
	Kettle River	KTRVMNXXK
	Little Fork	LTFKMNXL
	Malmo	MALMMNXXM
	McGregor	MCGRMNXXM
	Meadowlands	MDLDMNXXA
	McGrath	MGRTMNXXM
	Milaca	MILCMNXXM
	Nickerson	NCSNMNXXN
	Onamia	ONAMMNXXO
	Palo	PALOMNXXP
	Pease	PEASMNXXP
	Palisade	PLSDMNXXP
	Ranier	RANRMNXXR
	Sturgeon Lake	SGLKMNXS
	Tower	TOWRMNXXA
	Two Harbors	TWHRMNXXA

Rural Telephone Company	Study Area/Wire Center Name	CLLI Code
	Warba Wahkon Wheaton Wright	WARBMNXA WHKNMNXW WHTNMNXW WRGHMNXW
Consolidated Tel. Co. – Minnesota	Full Study Area	Full Study Area
Crosslake Telephone Company	Full Study Area	Full Study Area
Eagle Valley Tel. Co.	Full Study Area	Full Study Area
East Otter Tail Tel. Co.	Full Study Area	Full Study Area
Emily Coop. Tel. Co.	Full Study Area	Full Study Area
Federated Tel. Coop.*	Chokio Correll Danvers Holloway Odessa	CHOKMNXC CRRLMNXA DNVSMNXD HLWYMNXA ODSSMN XO
Federated Utilities, Inc. d/b/a Hancock Tel. Co.	Full Study Area	Full Study Area
Gardonville Coop. Tel. Assn.	Full Study Area	Full Study Area
Johnson Telephone Company	Full Study Area	Full Study Area
Loretel Systems, Inc.*	Audubon Cormorant Frazee Lake Park	ADBNMNXA CRM RMNXC FRAZMN XF LKPKMN XL
Lowry Telephone Company, LLC	Full Study Area	Full Study Area
Melrose Telephone Company*	Grey Eagle	GRYEMNXG
Mid-State Telephone Company*	Sedan Terrace	SEDNMNXS TRRCMNXT
Midwest Tel. Co.	Full Study Area	Full Study Area
Northern Telephone Company of Minnesota	Full Study Area	Full Study Area

Rural Telephone Company	Study Area/Wire Center Name	CLLI Code
Osakis Telephone Company	Full Study Area	Full Study Area
Park Region Mutual Tel. Co.	Full Study Area	Full Study Area
Peoples Telephone Company – MN	Full Study Area	Full Study Area
Rothsay Telephone Company, Inc.	Full Study Area	Full Study Area
Runestone Tel. Assn.	Full Study Area	Full Study Area
Starbuck Tel. Co.	Full Study Area	Full Study Area
Twin Valley – Ulen Tel. Co., Inc.*	Ulen White Earth	ULENMNXU WHERMNXW
United Telephone Co. of Minnesota*	Alexandria Alexandria Aitkin Bennettville Browerville Carlos Crosby Deerwood Holmes City Long Prairie Villard	ALXNMNXA ALXNMNXL ATKNMNXA BNVLMNXB BOVLMNXB CARLMNXC CRSBMNXC DRWDMNXD HMCYMNXH LNPRMNXL VLRDMNXV
Upsala Cooperative Telephone Assn.	Full Study Area	Full Study Area
Valley Tel. Co. – Minnesota	Full Study Area	Full Study Area
West Central Telephone Assn.	Full Study Area	Full Study Area
Wilderness Valley Telephone Company, Inc.	Full Study Area	Full Study Area
Wolverton Telephone Company	Full Study Area	Full Study Area

* - Denotes service area previously redefined. See *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket 96-45, Report and Order, FCC 05-46, ¶ 76 n. 213 (rel. March 17,

2005) ("*March 2005 Order*") (redefinition of Citizens Telecom Co., Melrose Tel. Co.; United Telephone Co. of Minnesota); *In the Matter of Cellular Mobile Systems of St. Cloud* *Petition for FCC Agreement to Redefine the Study Areas of Four Rural Telephone Companies in Minnesota*, CC Docket 96-45, *Petition for Redefinition* (July 2, 2004) (redefinition of Benton Coop. Tel. Co.; Citizens Telecom Co.); *Minnesota Public Utilities Commission for Agreement to Redefine the Service Area of Frontier Communications of Minnesota, Inc.* (November 29, 2000) (redefinition of Frontier Communications of Minnesota, Inc.); *Petition of RCC Minnesota, Inc. and Wireless Alliance, LLC for Redefinition of Rural Telephone Company Service Areas*, CC Docket No. 96-45, *Petition for Redefinition* (August 27, 2004) (redefinition of CenturyTel of Minnesota, Inc.; Loretel Systems, Inc.; Mid-State Tel. Co.; Federated Tel. Coop.; and Twin Valley – Ulen Tel. Co. Inc.).

ATTACHMENT 2

**Rural Telephone Company Wire Centers for Which ACC is Requesting Conditional ETC
Designation Subject to Redefinition of the Service Area Requirement**

Rural Telephone Company	Wire Center Name	CLLI Code
Paul Bunyan Rural Tel. Coop.	Becida Deer River Inger Wirt LaPorte Northome Solway Squaw Lake Turtle River	BECDMNXB DRRVMNXD INGRMNXI LAPTMNXL NOMEMNXN SLWYMNXS SQLKMNXS TRRVMNXT
Red River Rural Telephone Assoc.	Eabercromb East Fairmount	ABRCNDXA FAMTNDBC

ATTACHMENT 3

Affidavit Showing ACC Meets All Requirements for Designation as an ETC

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendraye
Kenneth Nickolai
Marshall Johnson
Phyllis A. Reha
Thomas Pugh

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of AMERICAN CELLULAR) Docket No. _____
CORPORATION Petition for Designation as an)
Eligible Telecommunications Carrier and)
Redefinition of Rural Telephone Company Service)
Area Requirement)

CERTIFICATION OF THOMAS A. COATES

I, the undersigned, Thomas A. Coates, do hereby verify as follows:

1. I serve as Vice President for Corporate Development for American Cellular Corporation.
2. This Certification is submitted in support of ACC's Petition for Designation as an Eligible Telecommunications Carrier and Petition for Redefinition of Rural Telephone Company Service Area Requirement ("Petition").
3. I further declare that I have reviewed the Petition and that the facts stated therein, of which I have personal knowledge, are true and correct to the best of my knowledge and belief.
4. I certify that the foregoing is true and correct to the best of my knowledge, information and belief.

Date: June 30, 2005

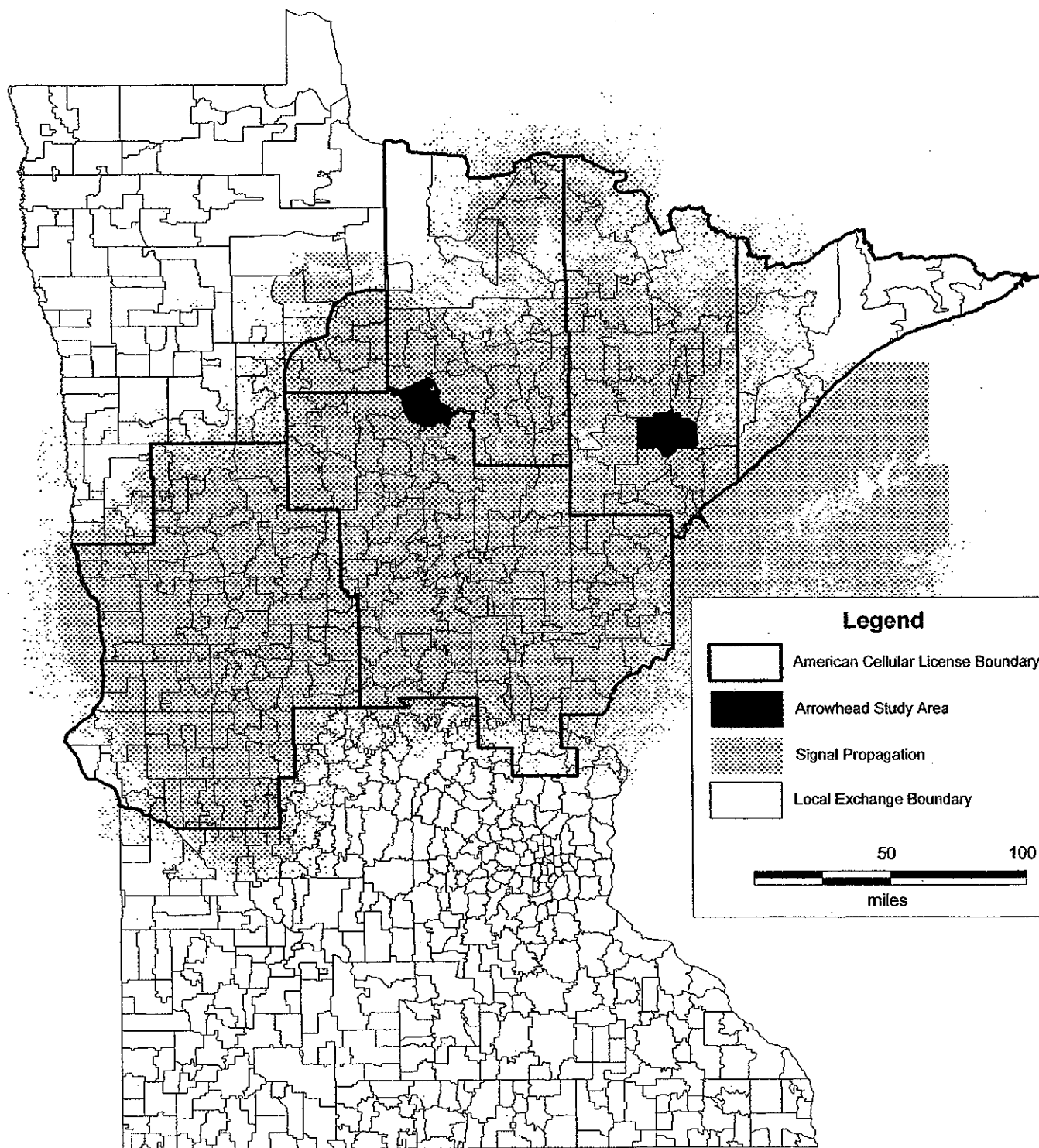


Thomas A. Coates

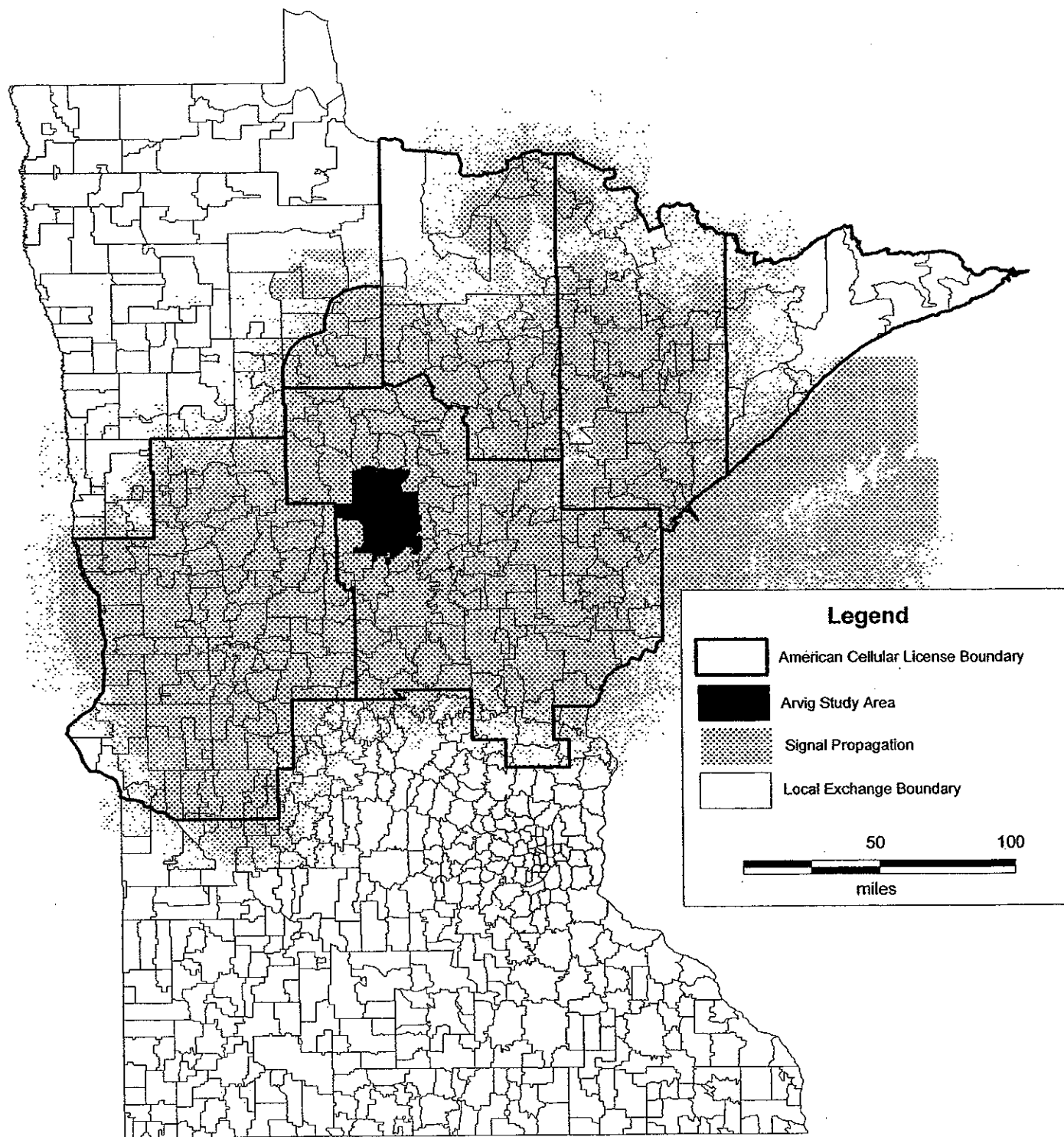
ATTACHMENT 4

ACC's Service Coverage Maps for the Requested ETC Service Areas

Arrowhead Communications Corporation Study Area
and American Cellular Corporation's Minnesota Licensed Areas



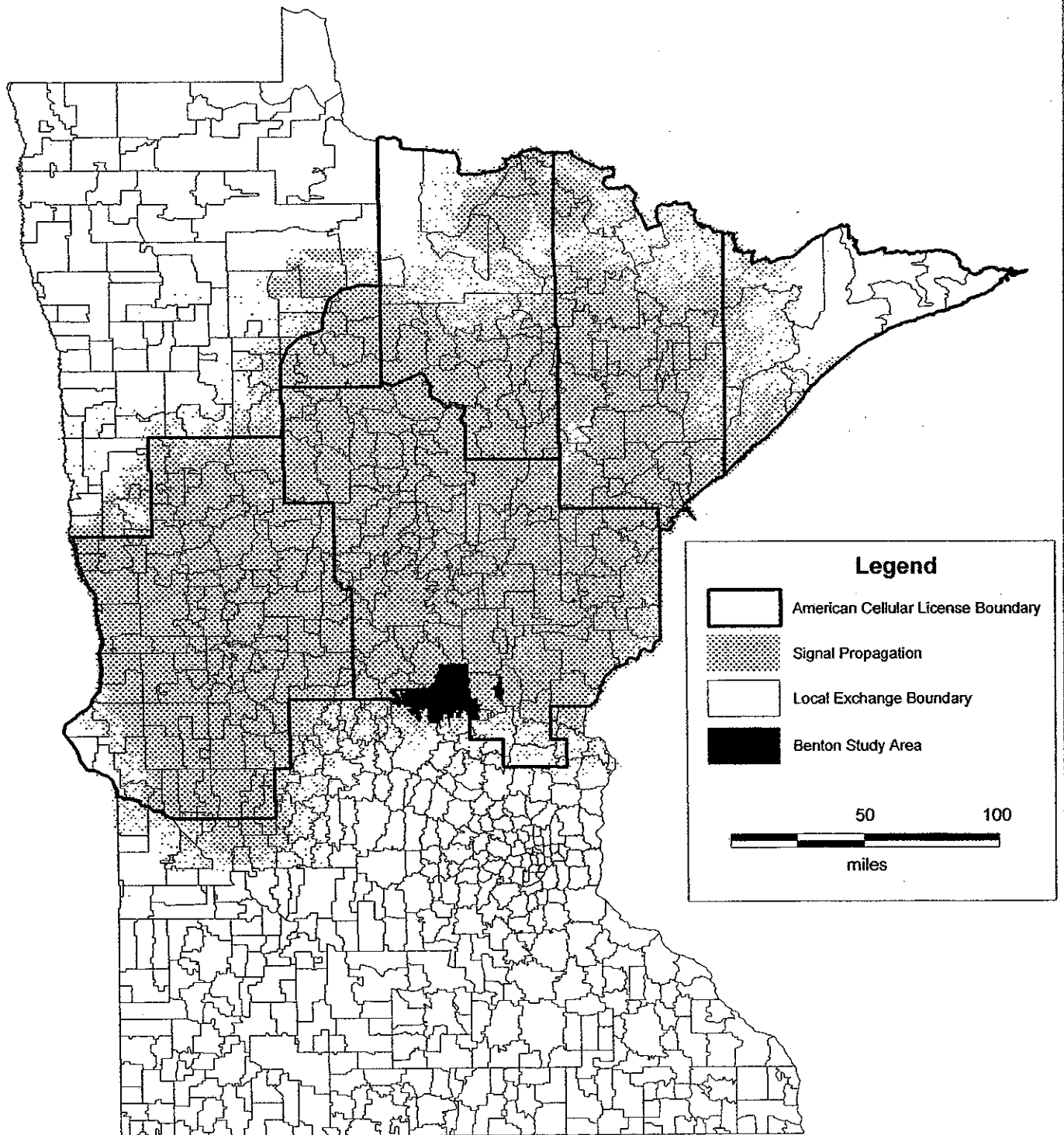
Arvig Telephone Company Study Area
and American Cellular Corporation's Minnesota Licensed Areas



DOBSON
COMMUNICATIONS CORPORATION



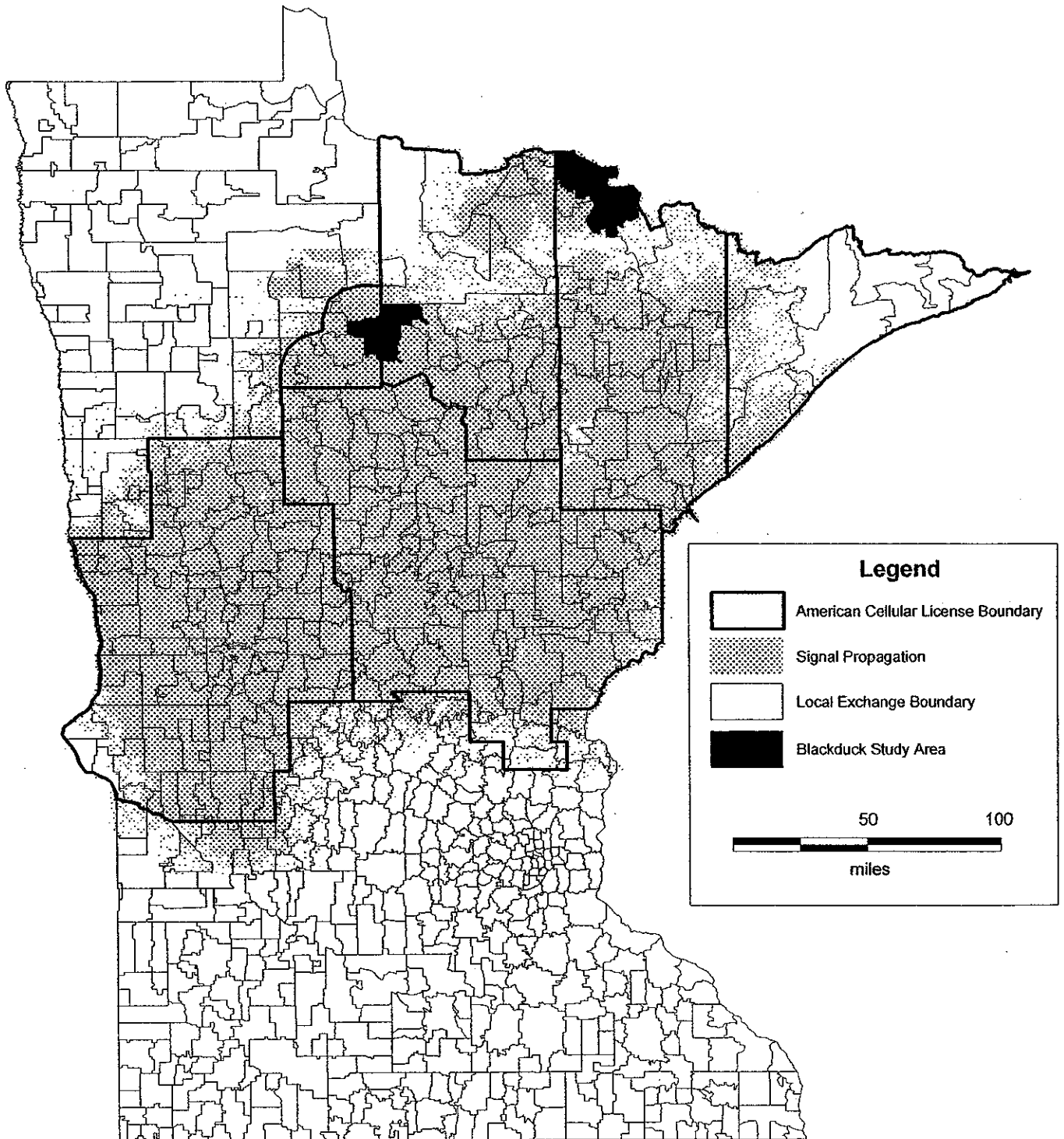
**Benton Cooperative Telephone Company Study Area
and American Cellular Corporation's Minnesota Licensed Areas**



DOBSON
COMMUNICATIONS CORPORATION



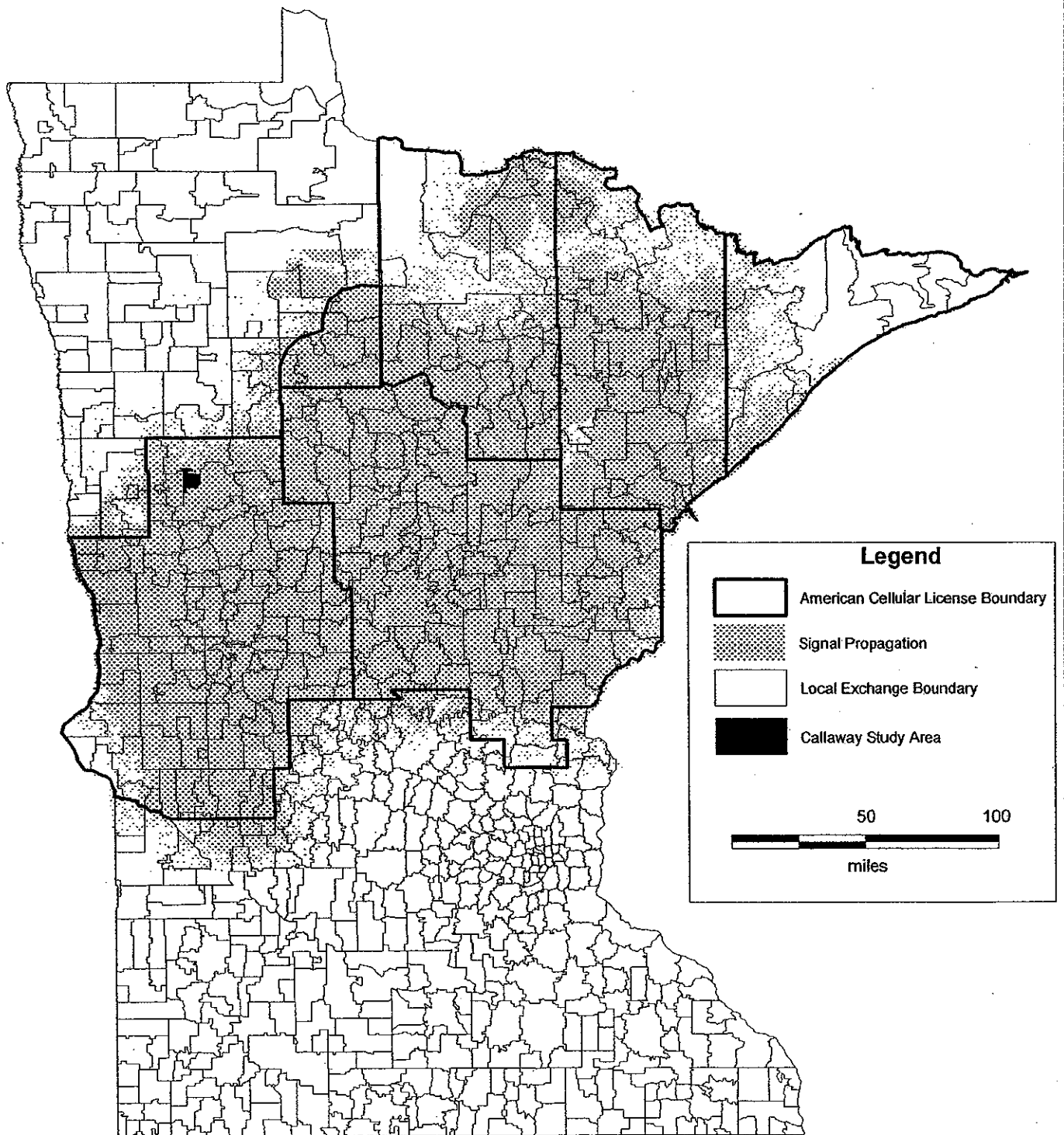
**Blackduck Telephone Company Study Area
and American Cellular Corporation's Minnesota Licensed Areas**



DOBSON
COMMUNICATIONS CORPORATION



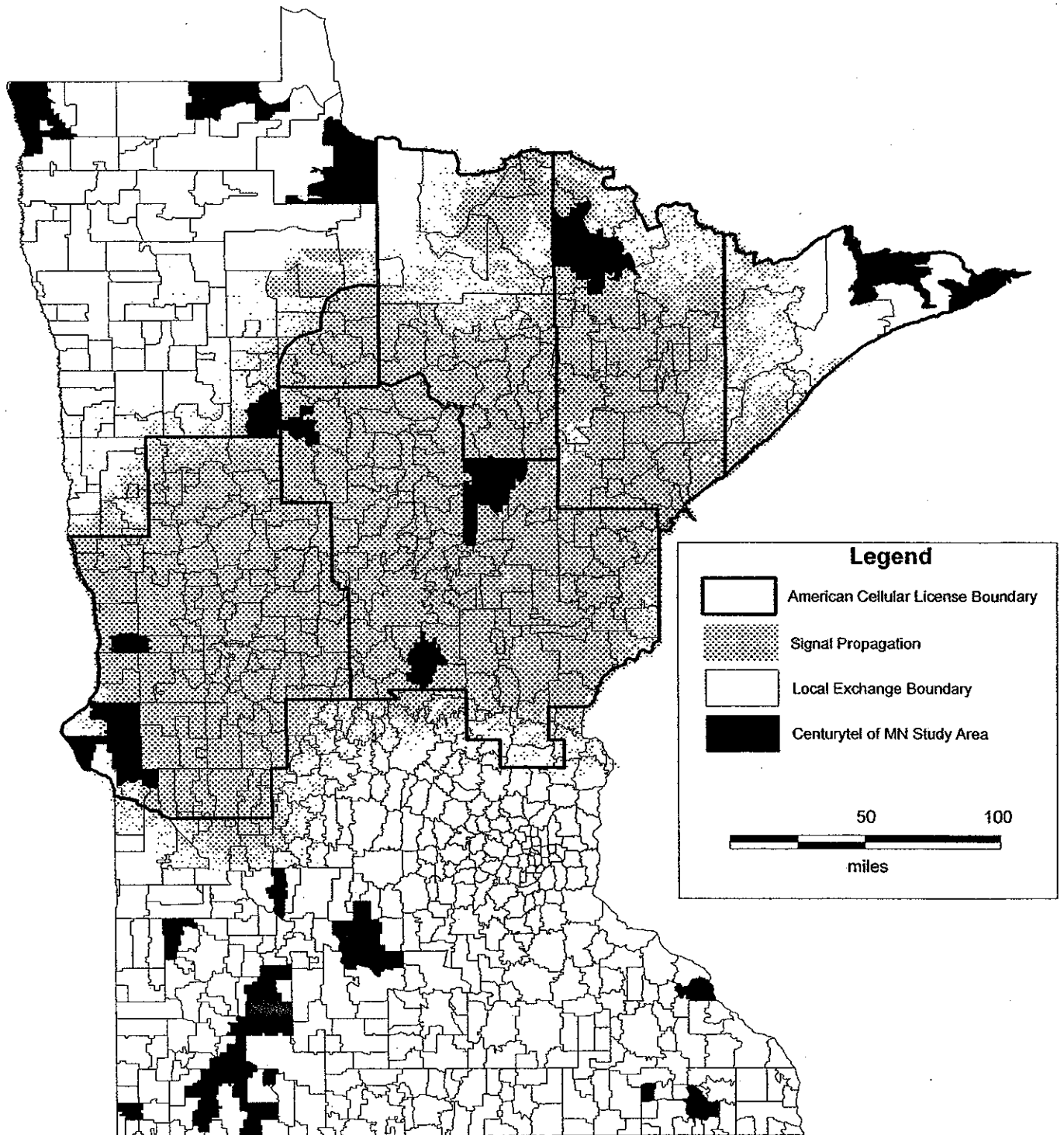
**Callaway Telephone Company Study Area
and American Cellular Corporation's Minnesota Licensed Areas**



DOBSON
COMMUNICATIONS CORPORATION



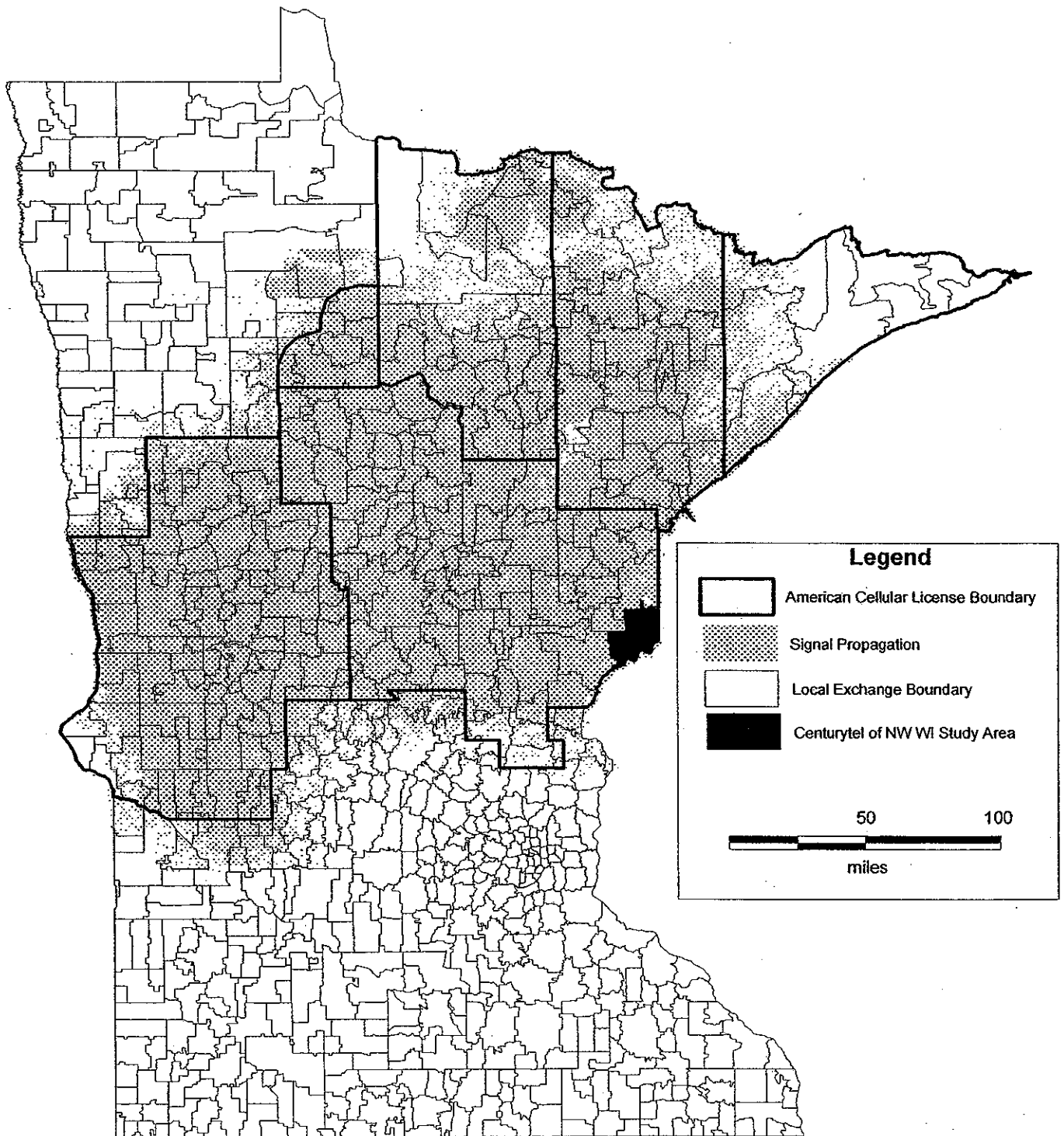
**Centurytel of Minnesota, Inc. Study Area
and American Cellular Corporation's Minnesota Licensed Areas**



DOBSON
COMMUNICATIONS CORPORATION



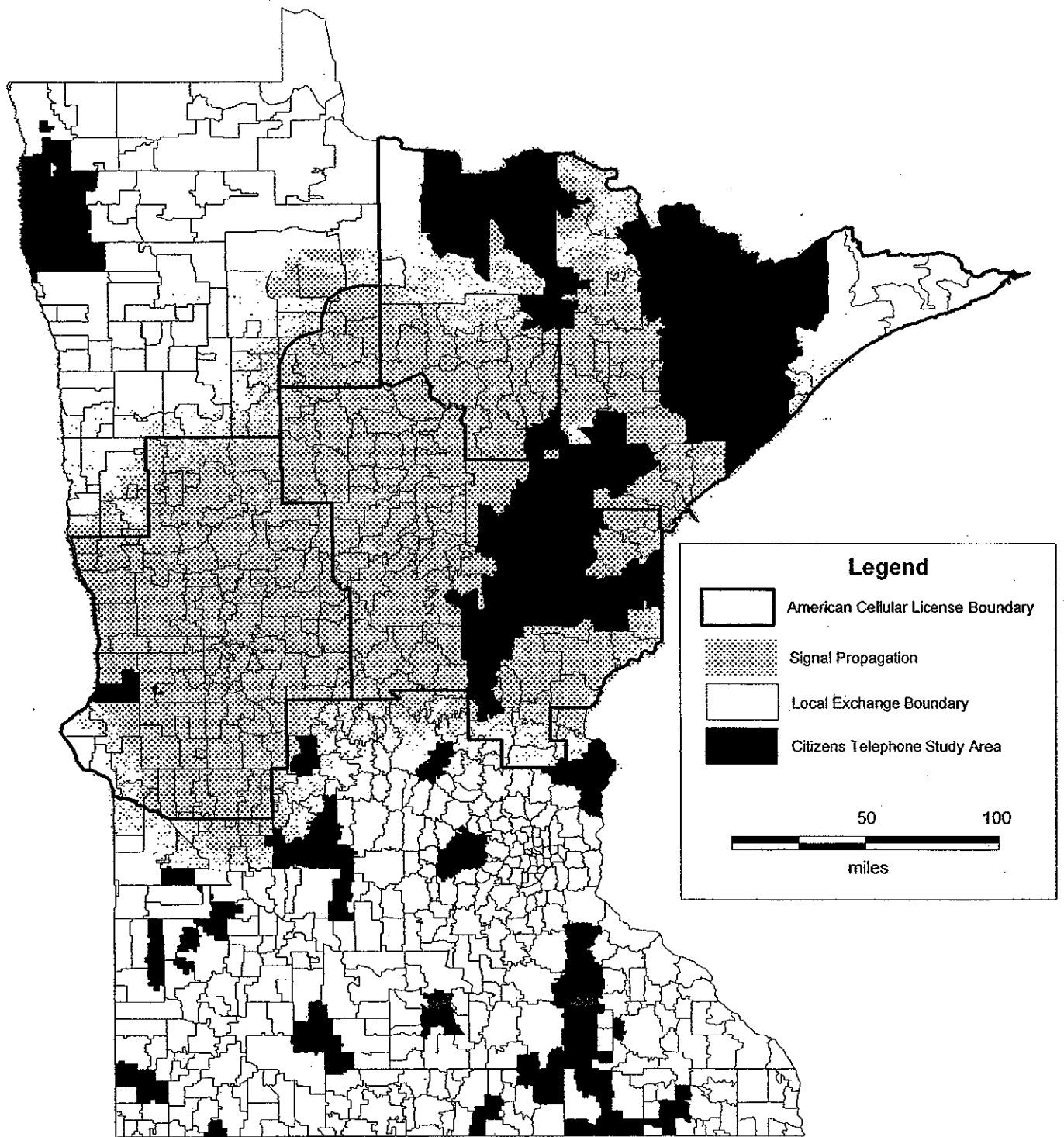
**Centurytel of Northwest Wisconsin, Inc. Study Area
and American Cellular Corporation's Minnesota Licensed Areas**



DOBSON
COMMUNICATIONS CORPORATION



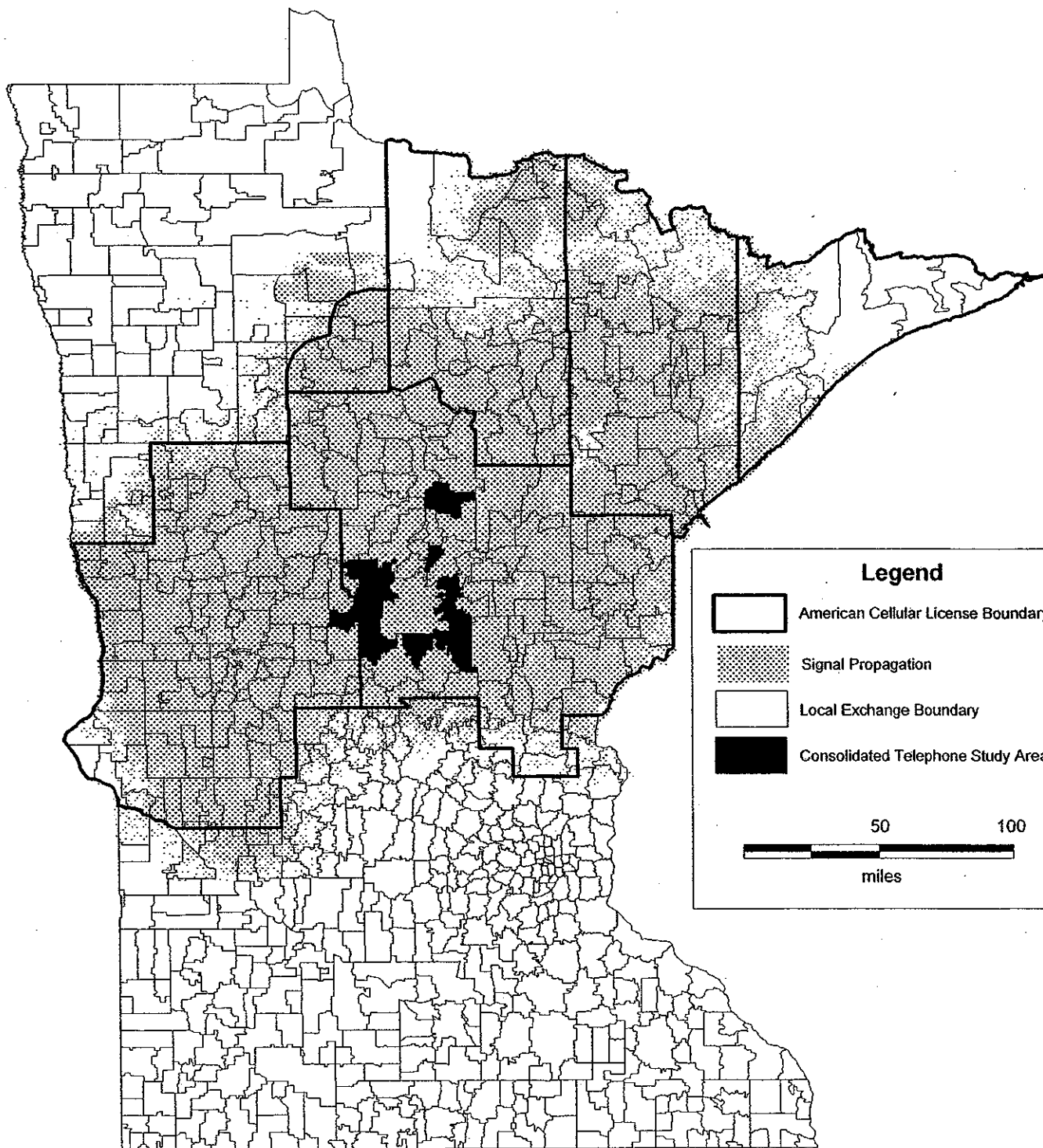
**Citizens Telephone Company of MN (dba Frontier Communications of MN) Study Area
and American Cellular Corporation's Minnesota Licensed Areas**



DOBSON
COMMUNICATIONS CORPORATION



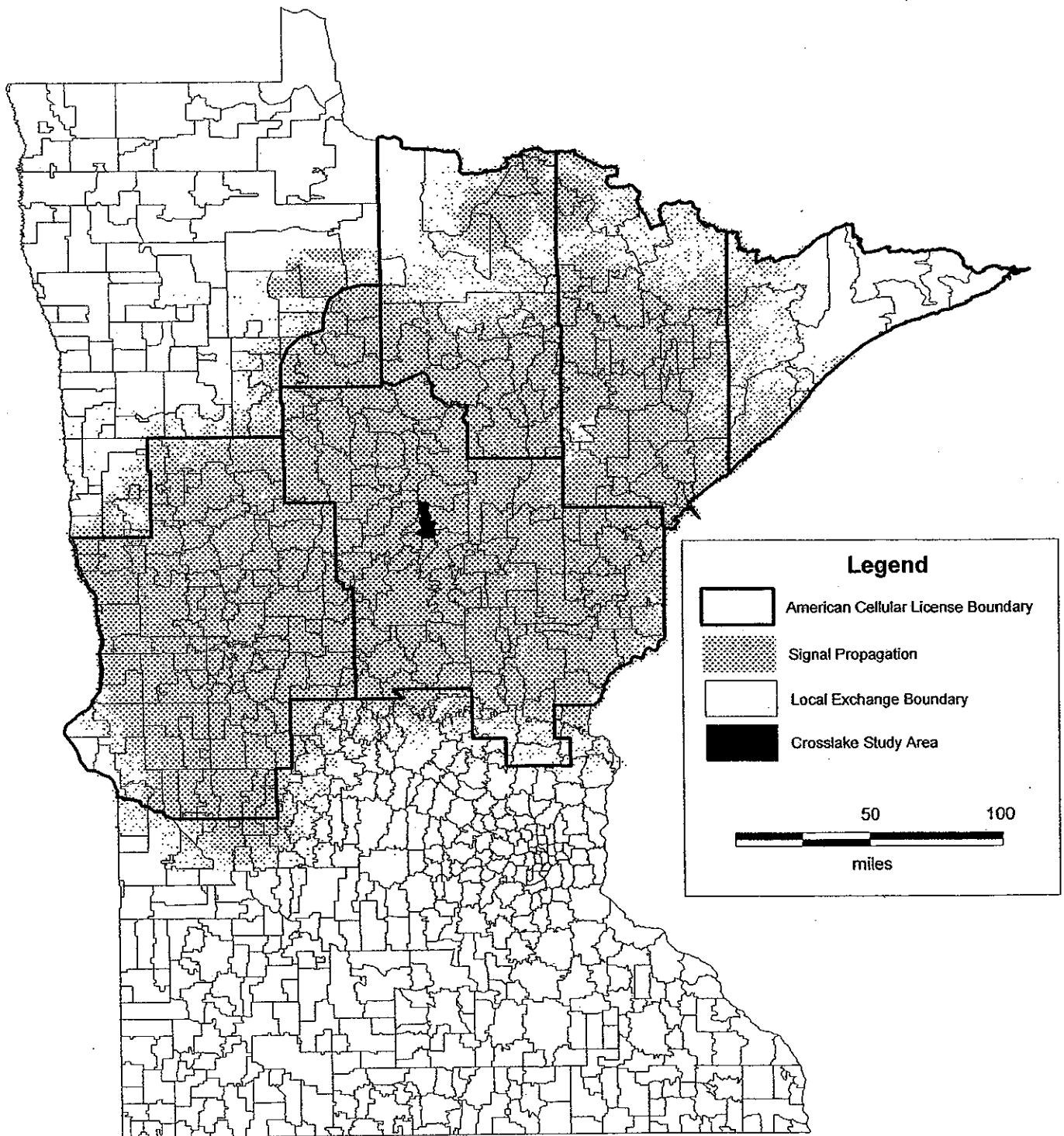
**Consolidated Telephone Company Study Area
and American Cellular Corporation's Minnesota Licensed Areas**



DOBSON
COMMUNICATIONS CORPORATION



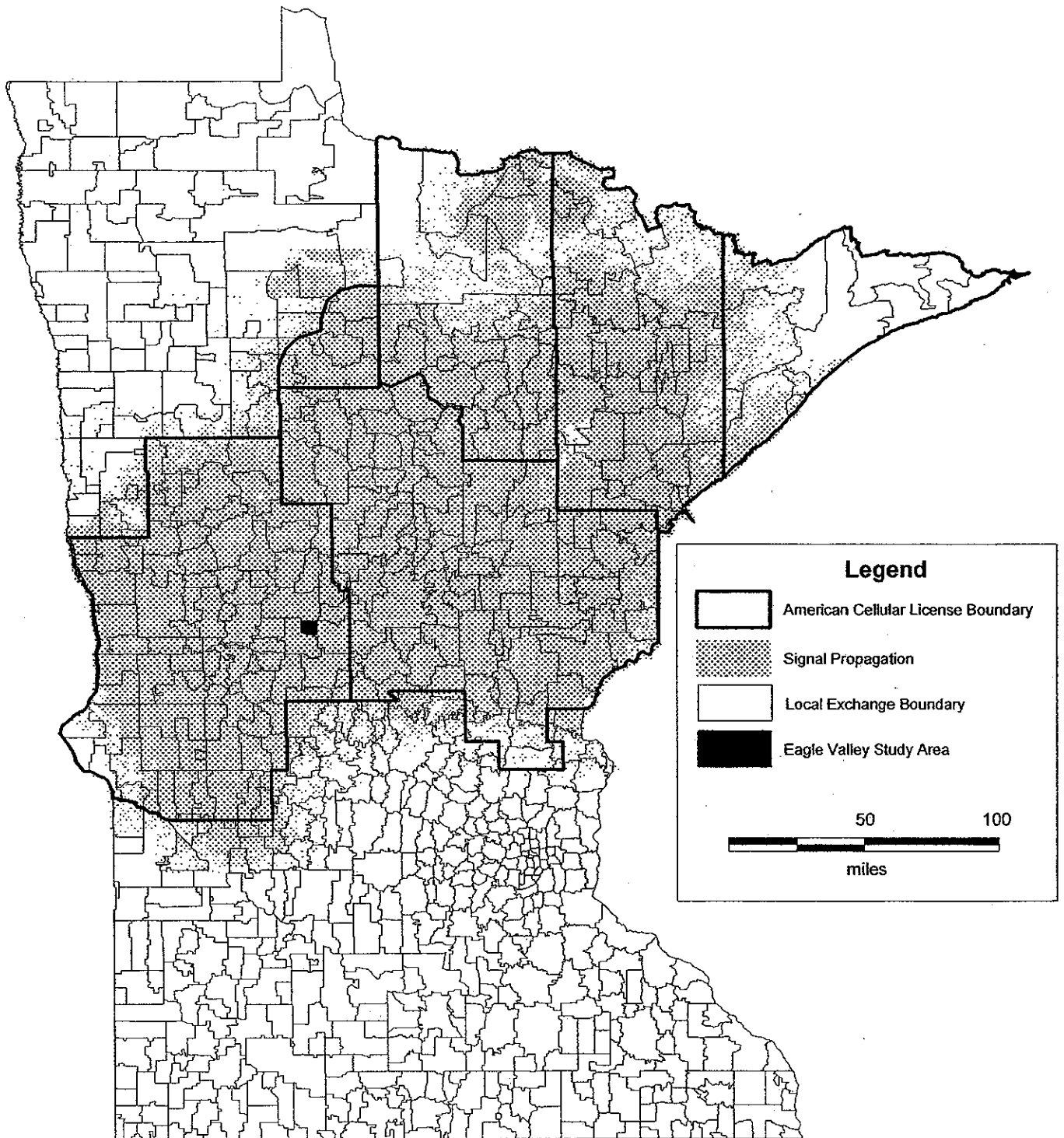
**Crosslake Telephone Company Study Area
and American Cellular Corporation's Minnesota Licensed Areas**



DOBSON
COMMUNICATIONS CORPORATION



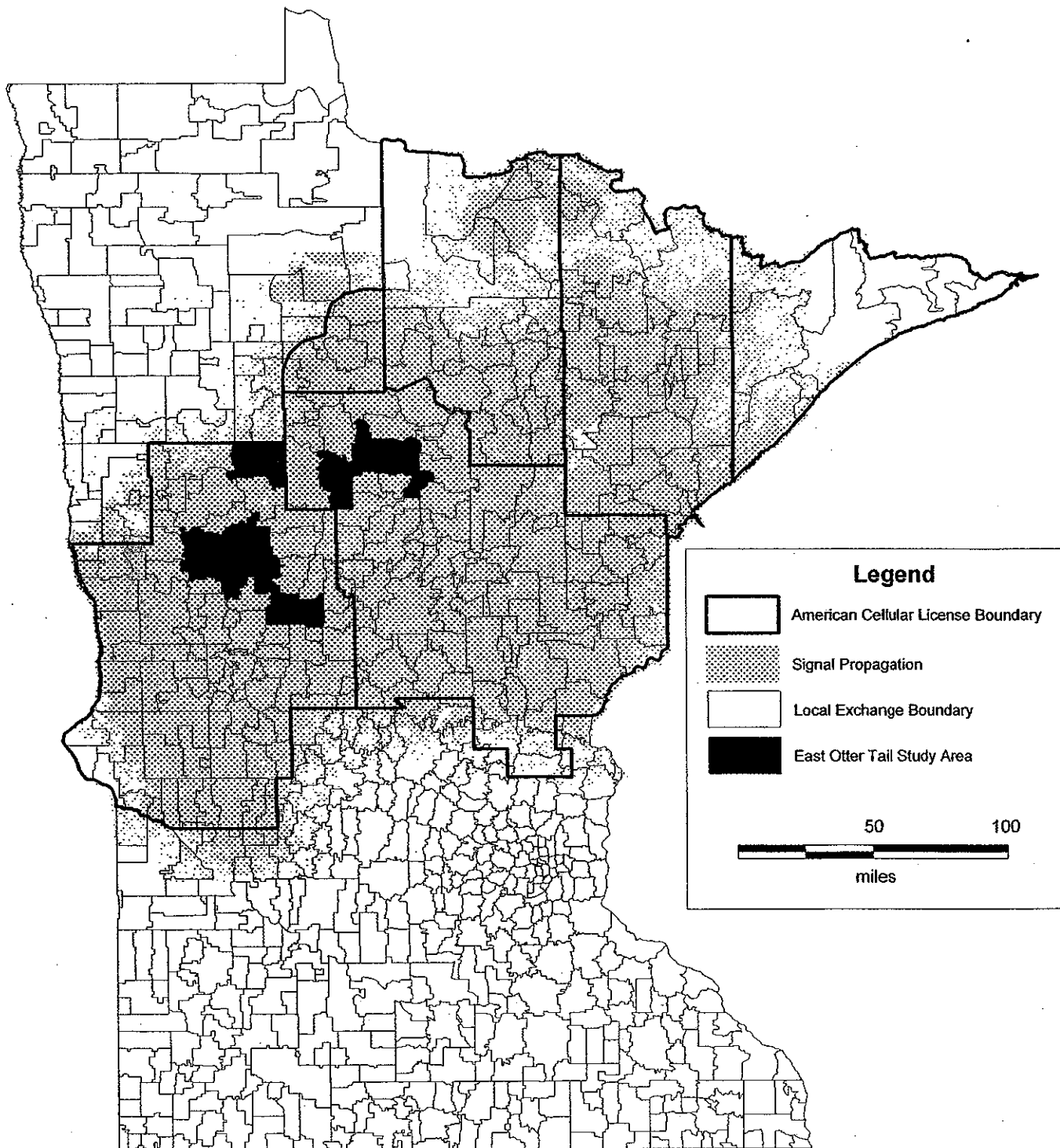
**Eagle Valley Telephone Company Study Area
and American Cellular Corporation's Minnesota Licensed Areas**



DOBSON
COMMUNICATIONS CORPORATION



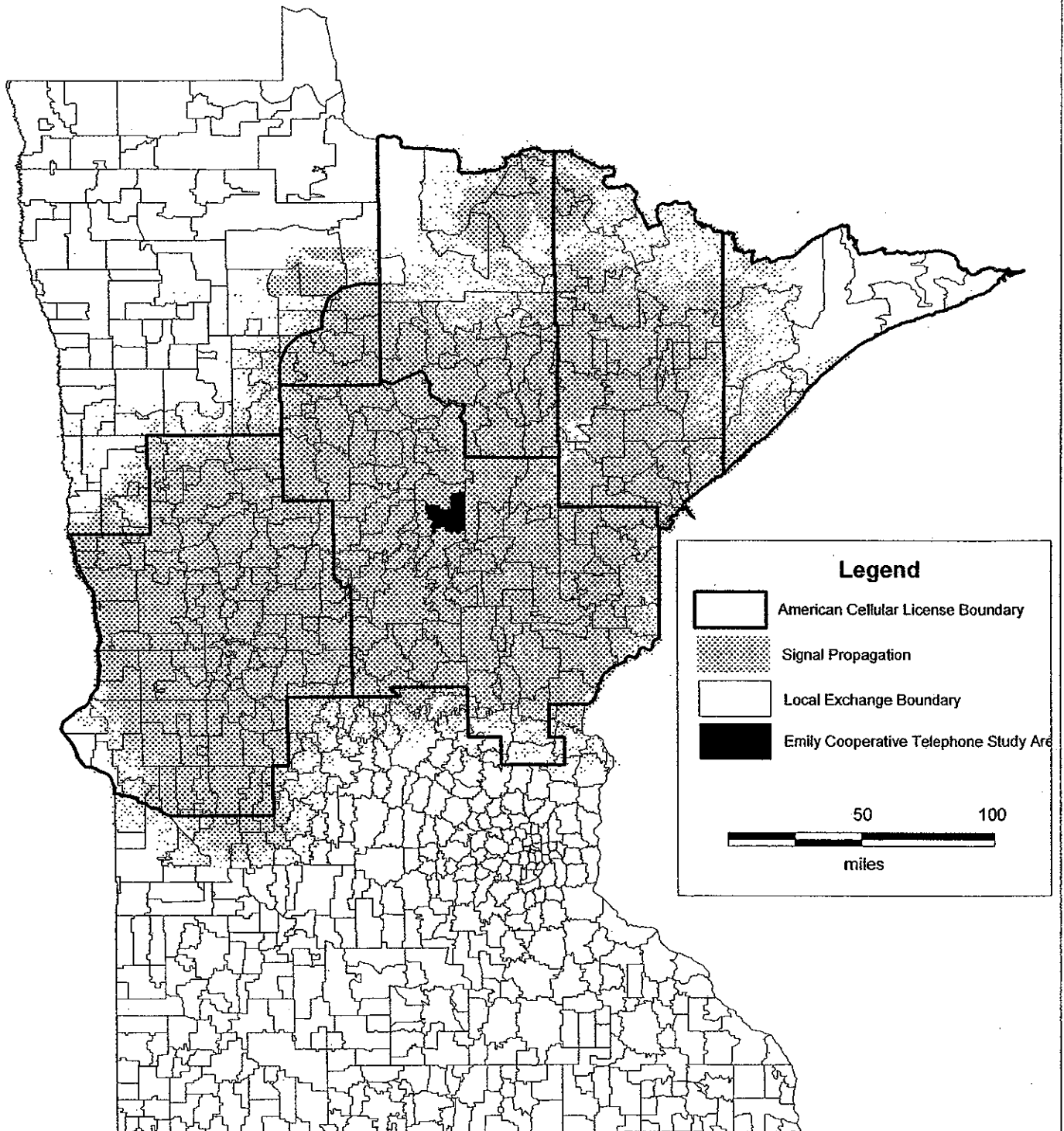
**East Otter Tail Telephone Company Study Area
and American Cellular Corporation's Minnesota Licensed Areas**



DOBSON
COMMUNICATIONS CORPORATION



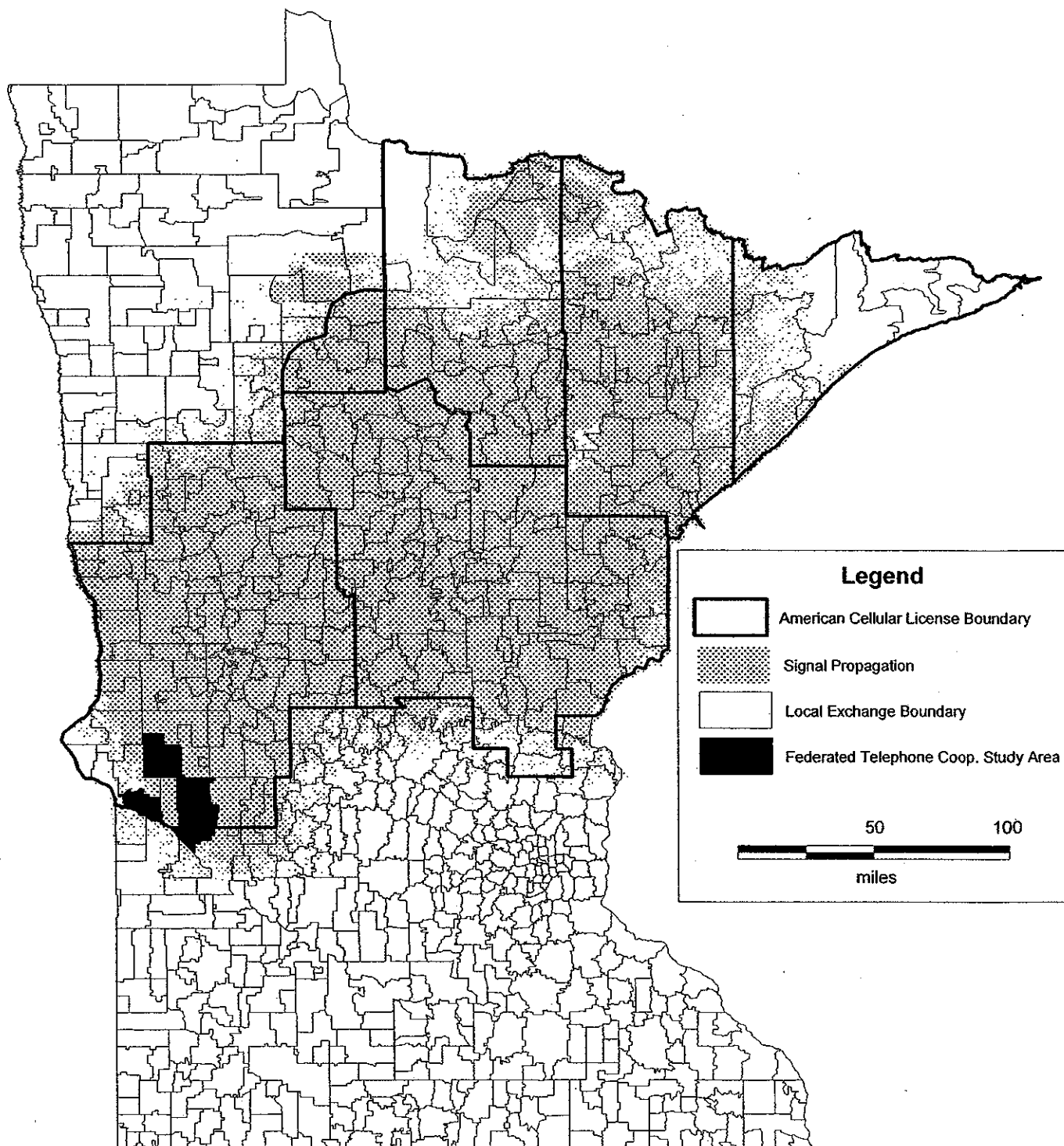
**Emily Cooperative Telephone Company Study Area
and American Cellular Corporation's Minnesota Licensed Areas**



DOBSON
COMMUNICATIONS CORPORATION



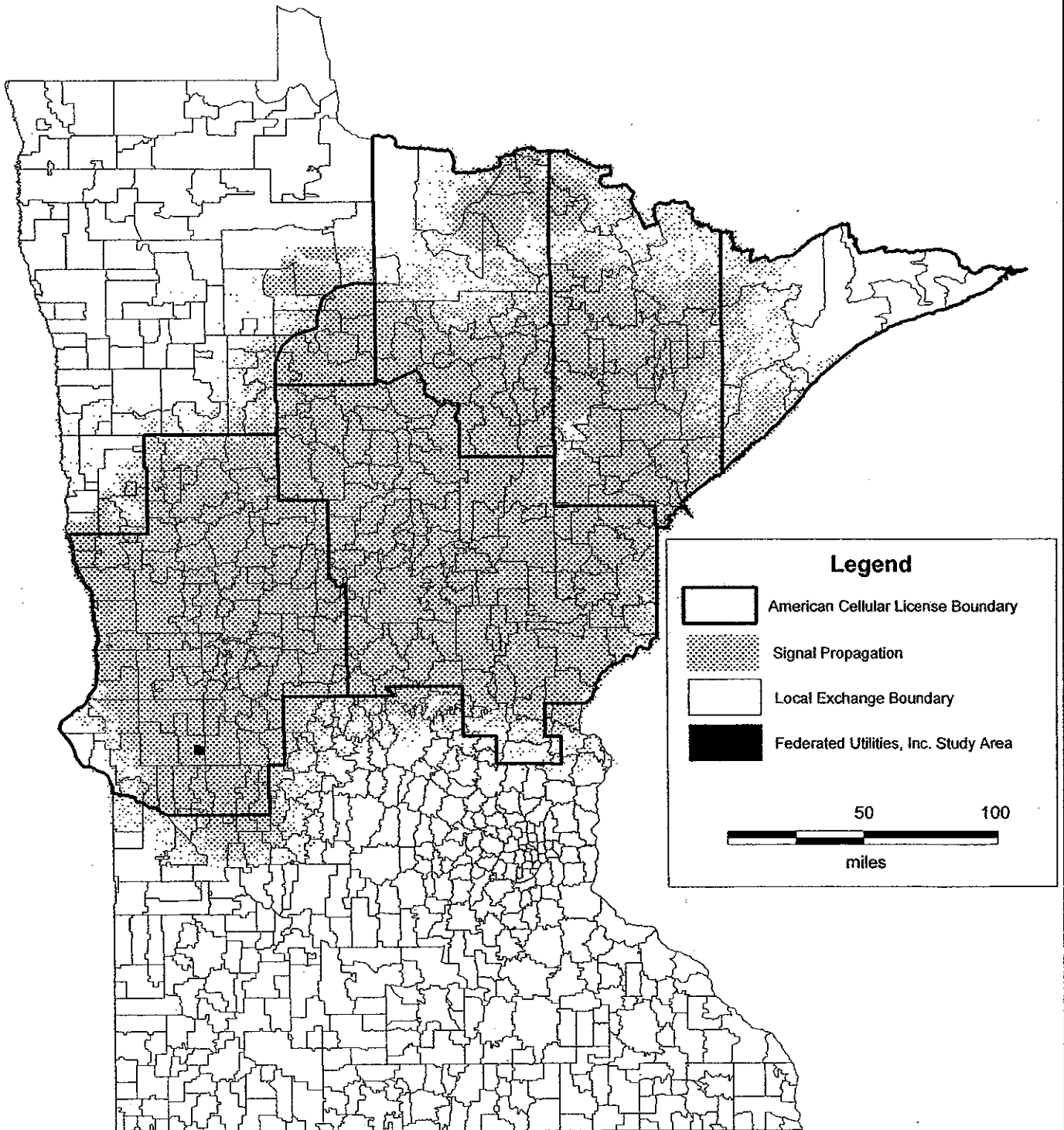
**Federated Telephone Cooperative Study Area
and American Cellular Corporation's Minnesota Licensed Areas**



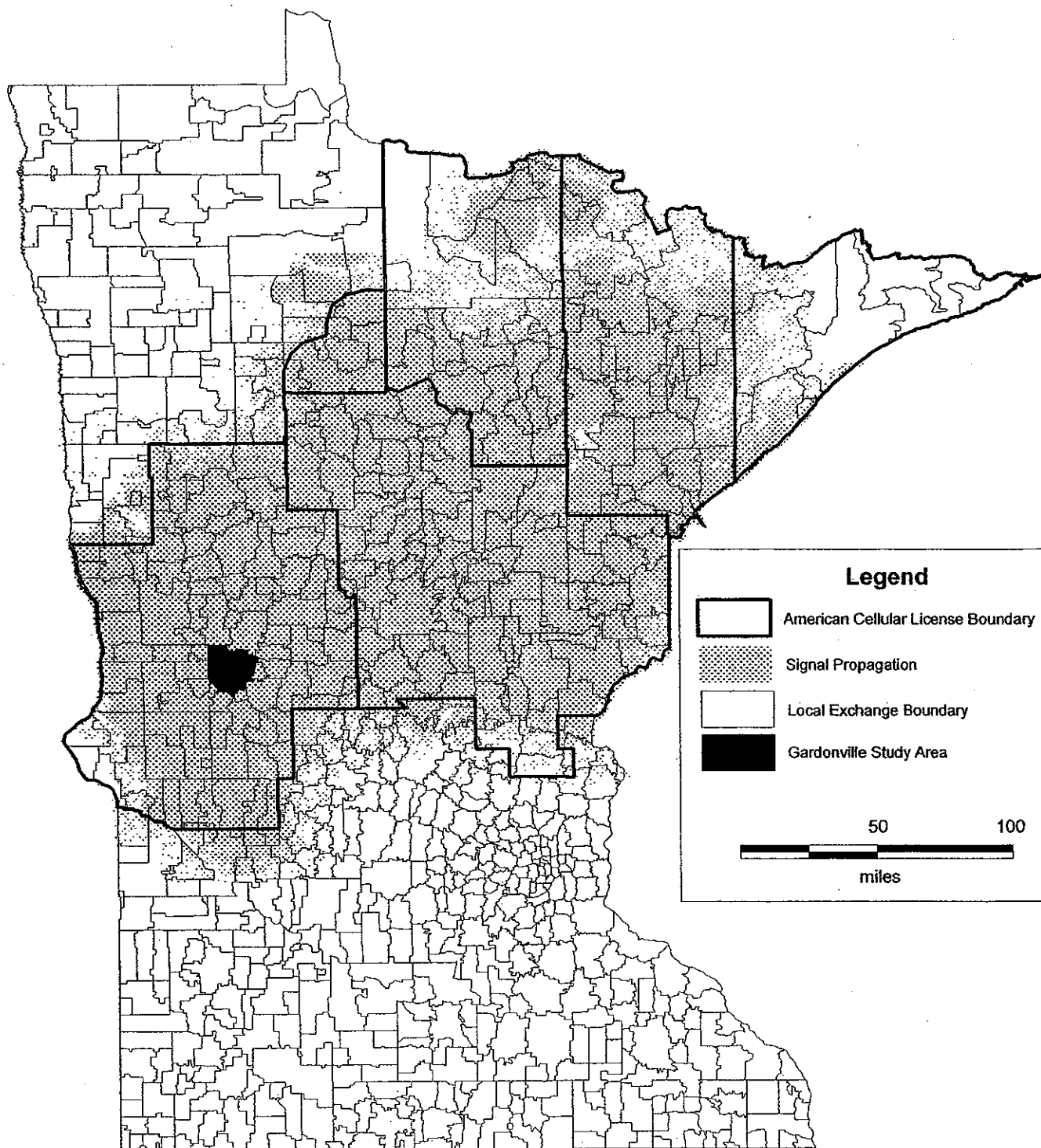
DOBSON
COMMUNICATIONS CORPORATION



**Federated Utilities, Inc. (dba Hancock Telephone Company) Study Area
and American Cellular Corporation's Minnesota Licensed Areas**



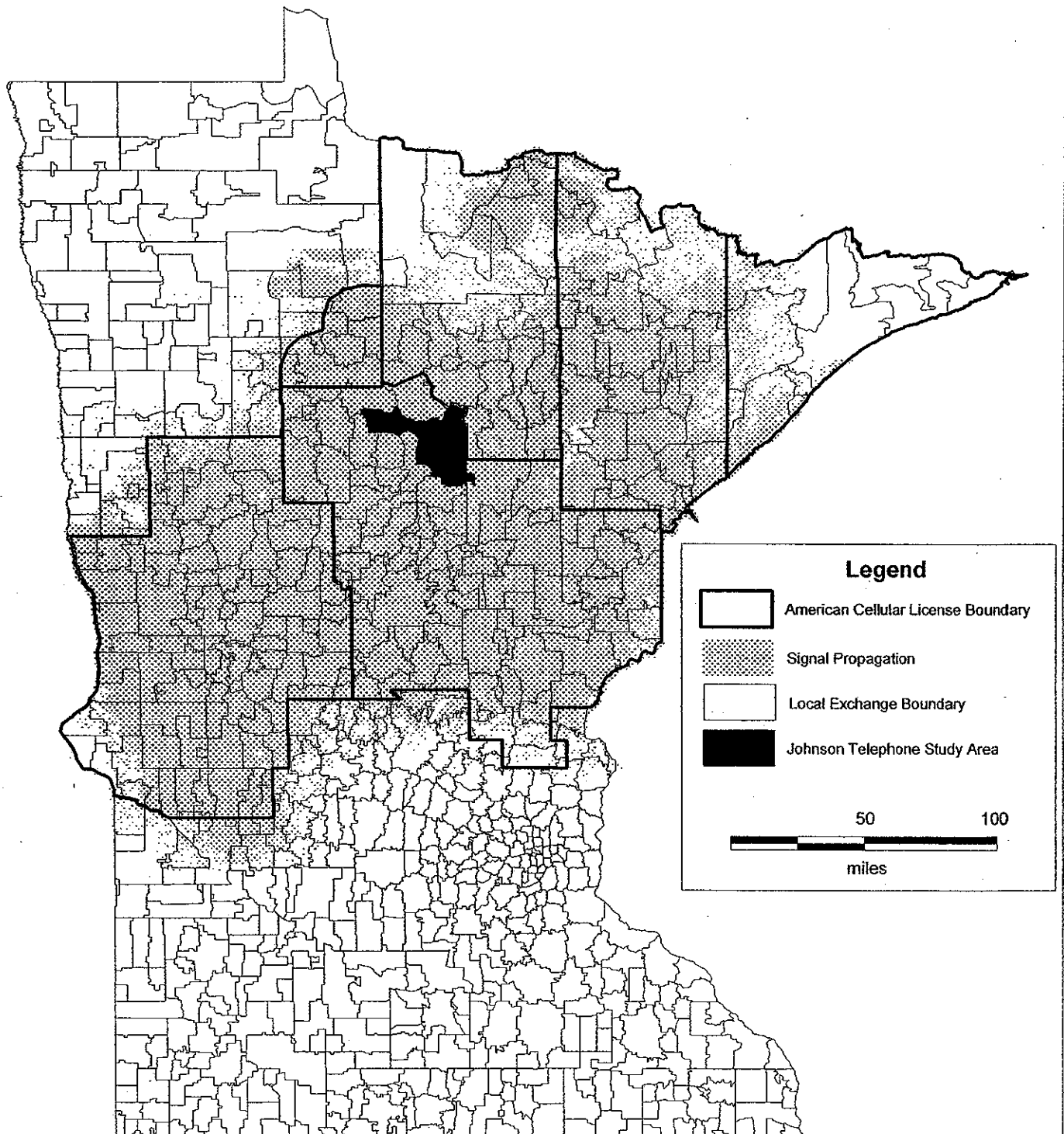
**Gardonville Cooperative Telephone Association Study Area
and American Cellular Corporation's Minnesota Licensed Areas**



DOBSON
COMMUNICATIONS CORPORATION



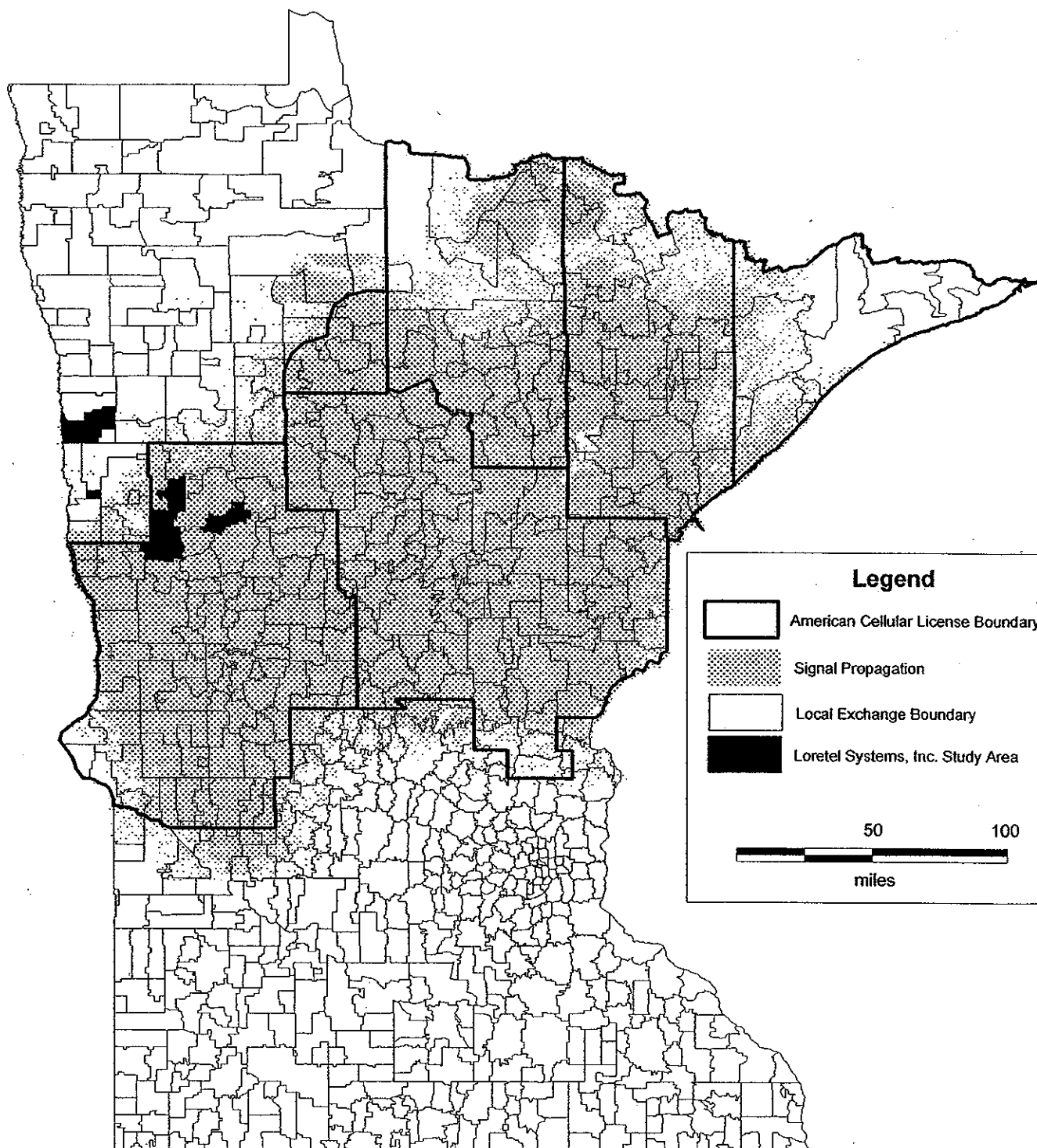
**Johnson Telephone Company Study Area
and American Cellular Corporation's Minnesota Licensed Areas**



DOBSON
COMMUNICATIONS CORPORATION



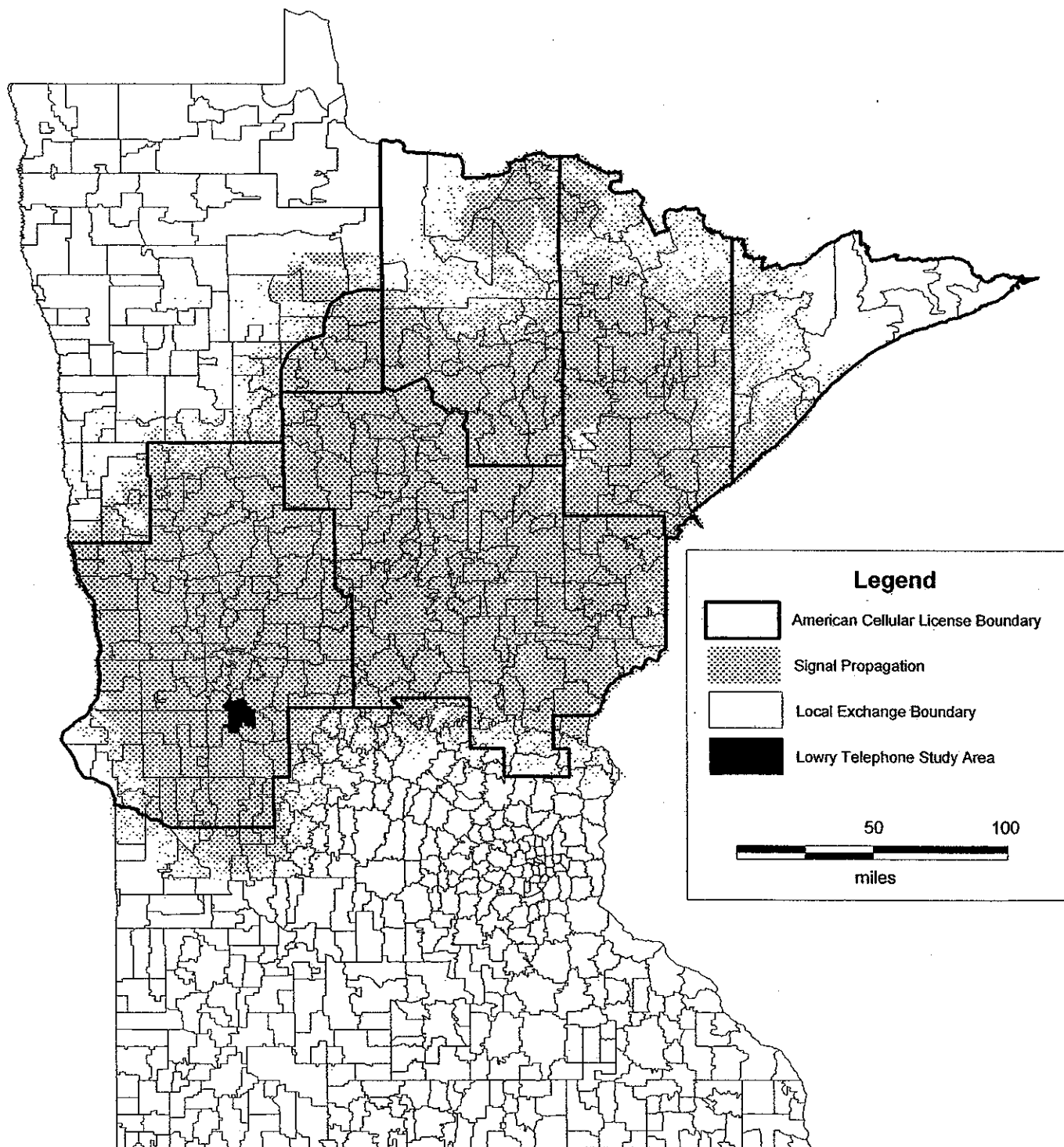
**Loretel Systems, Inc. Study Area
and American Cellular Corporation's Minnesota Licensed Areas**



DOBSON
COMMUNICATIONS CORPORATION



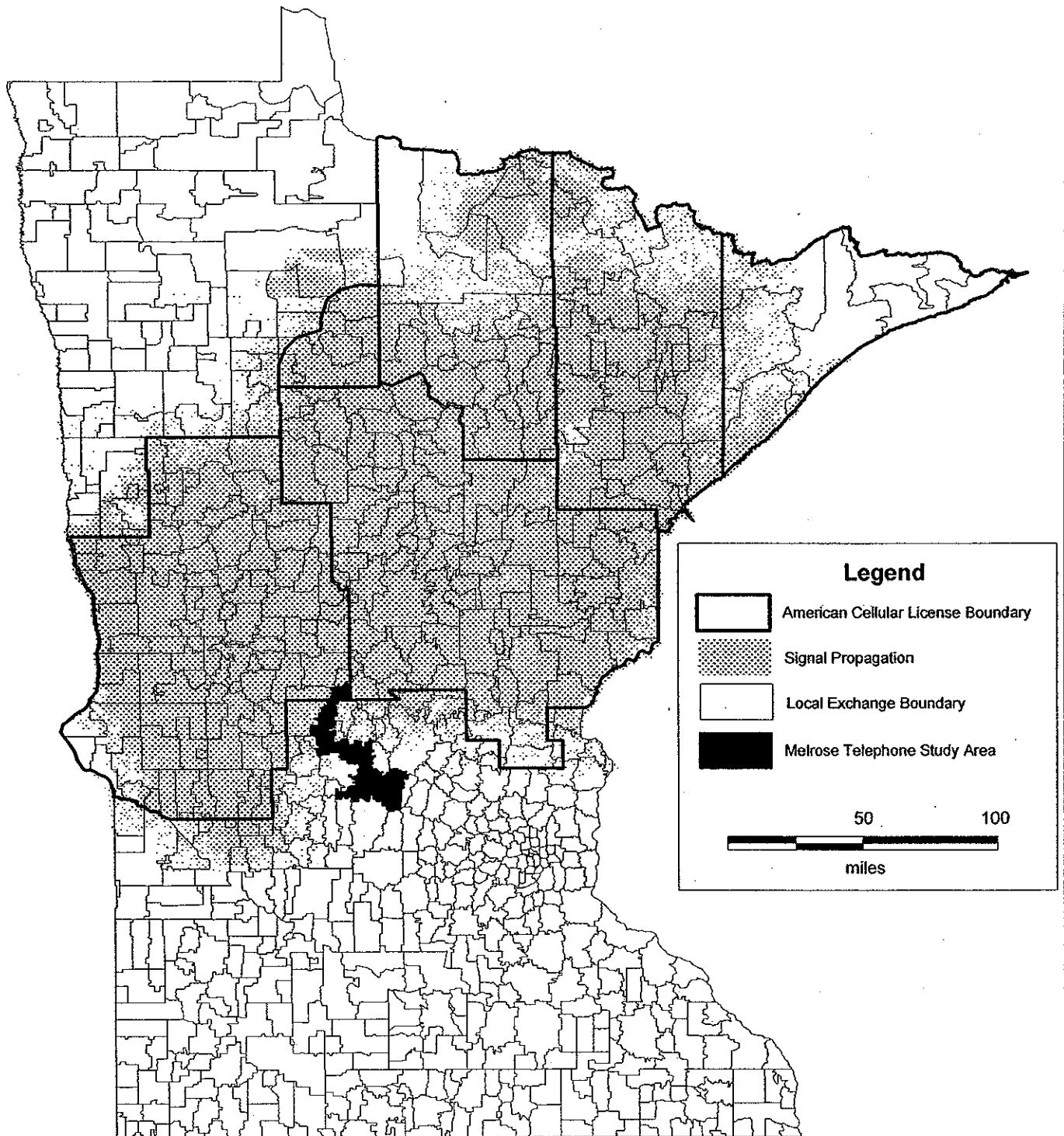
**Lowry Telephone Company, LLC Study Area
and American Cellular Corporation's Minnesota Licensed Areas**



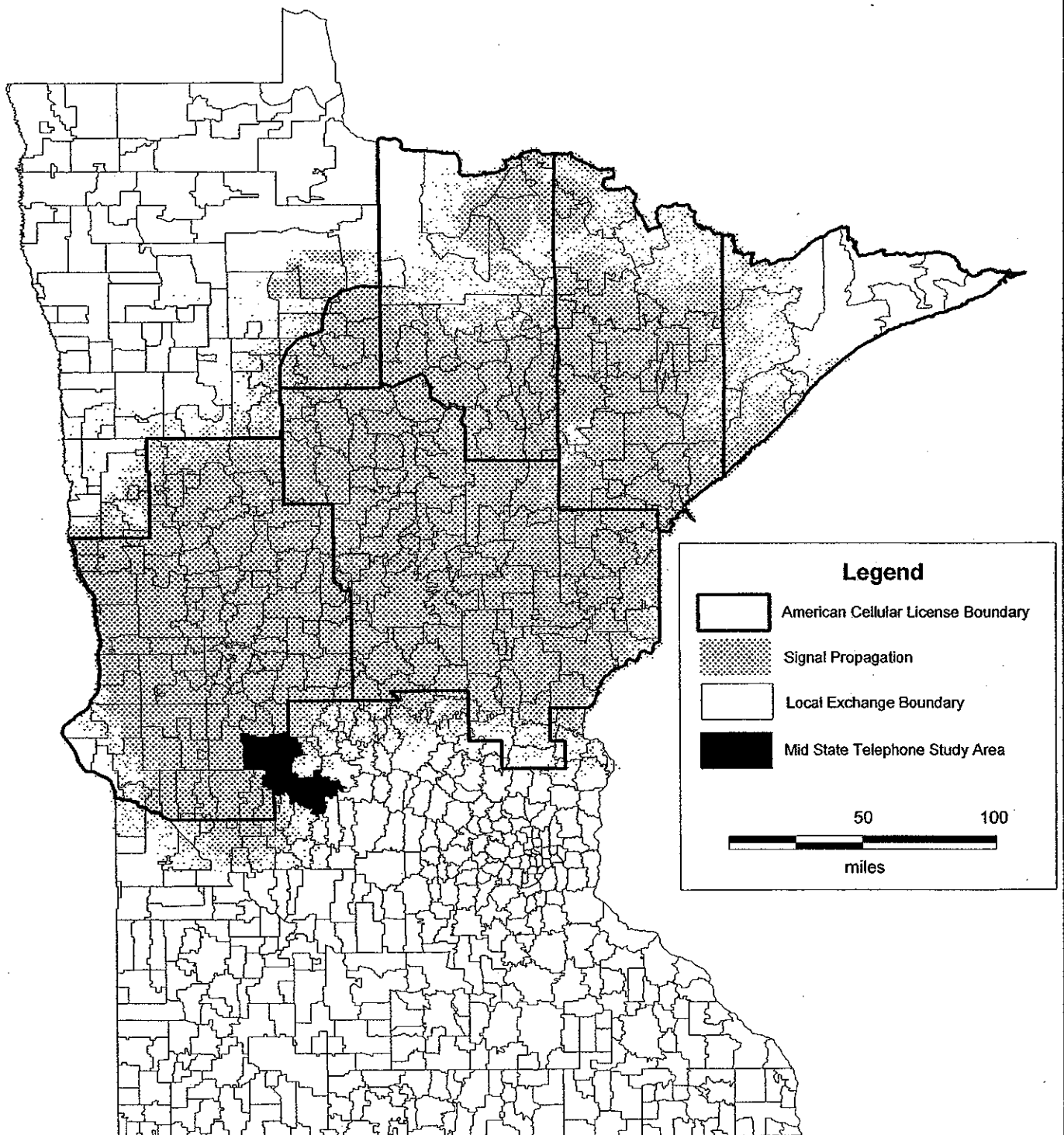
DOBSON
COMMUNICATIONS CORPORATION



**Melrose Telephone Company Study Area
and American Cellular Corporation's Minnesota Licensed Areas**



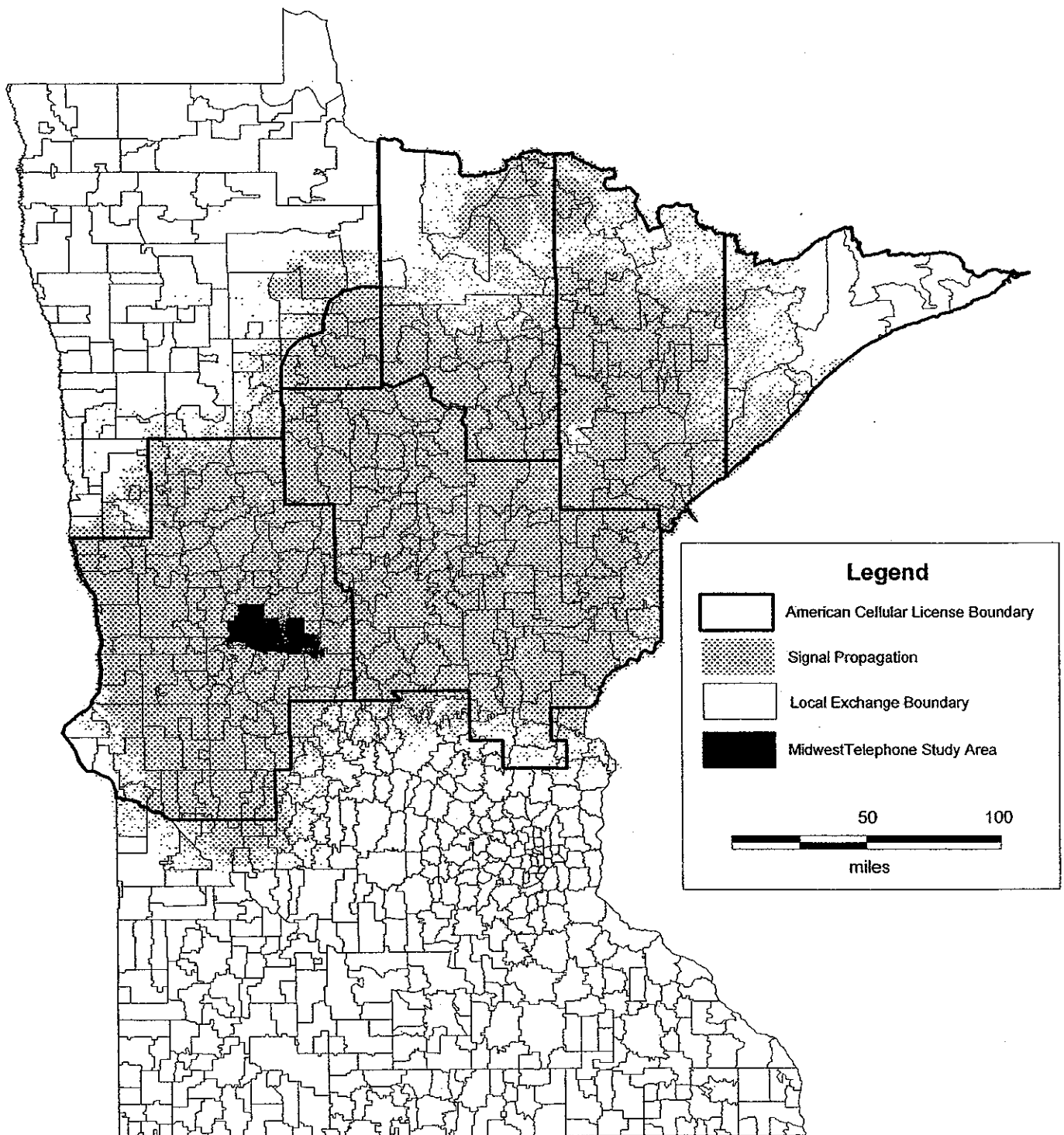
**Mid State Telephone Company Study Area
and American Cellular Corporation's Minnesota Licensed Areas**



DOBSON
COMMUNICATIONS CORPORATION



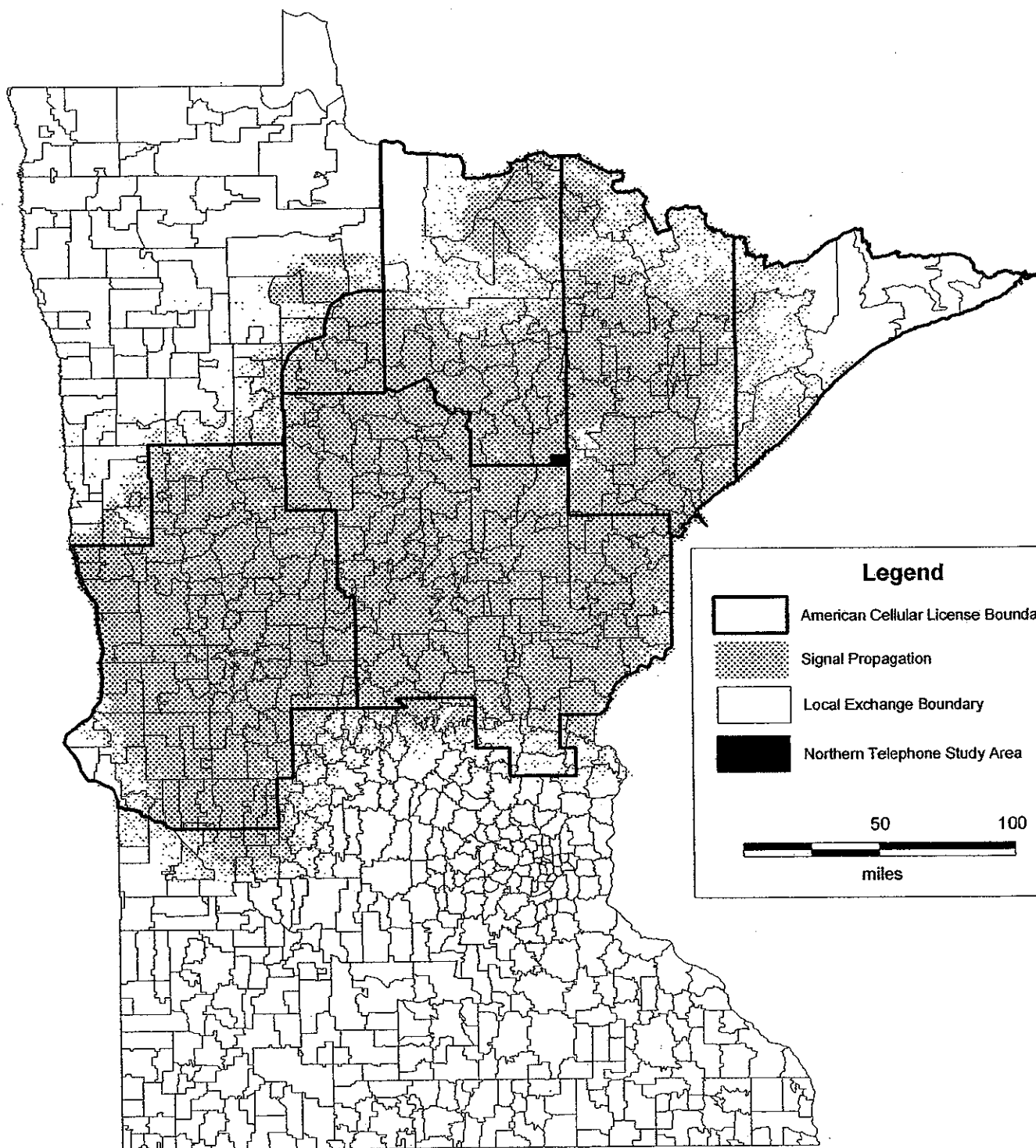
**Midwest Telephone Company Study Area
and American Cellular Corporation's Minnesota Licensed Areas**



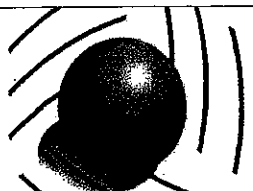
DOBSON
COMMUNICATIONS CORPORATION



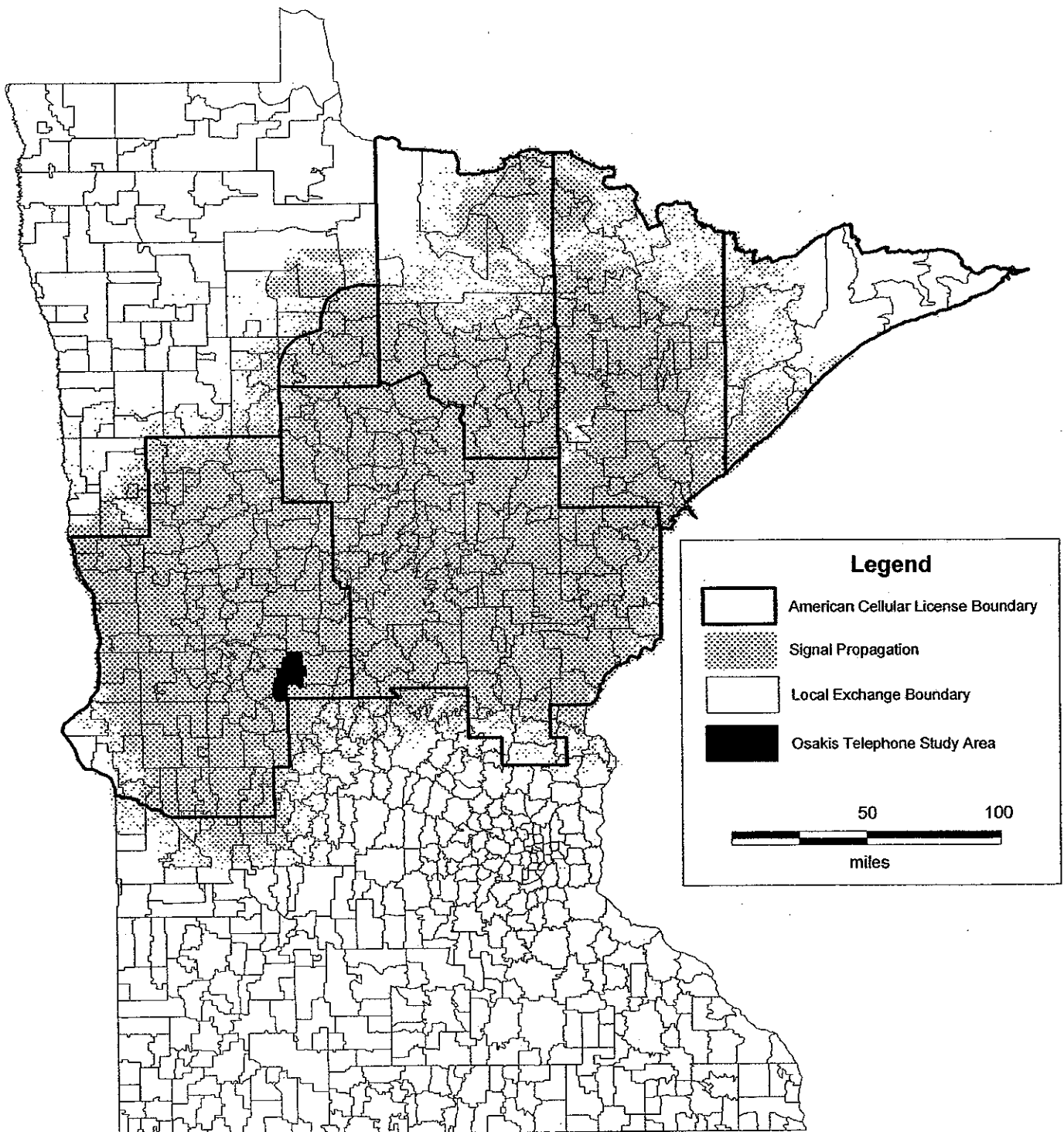
**NorthernTelephone Company Study Area
and American Cellular Corporation's Minnesota Licensed Areas**



DOBSON
COMMUNICATIONS CORPORATION



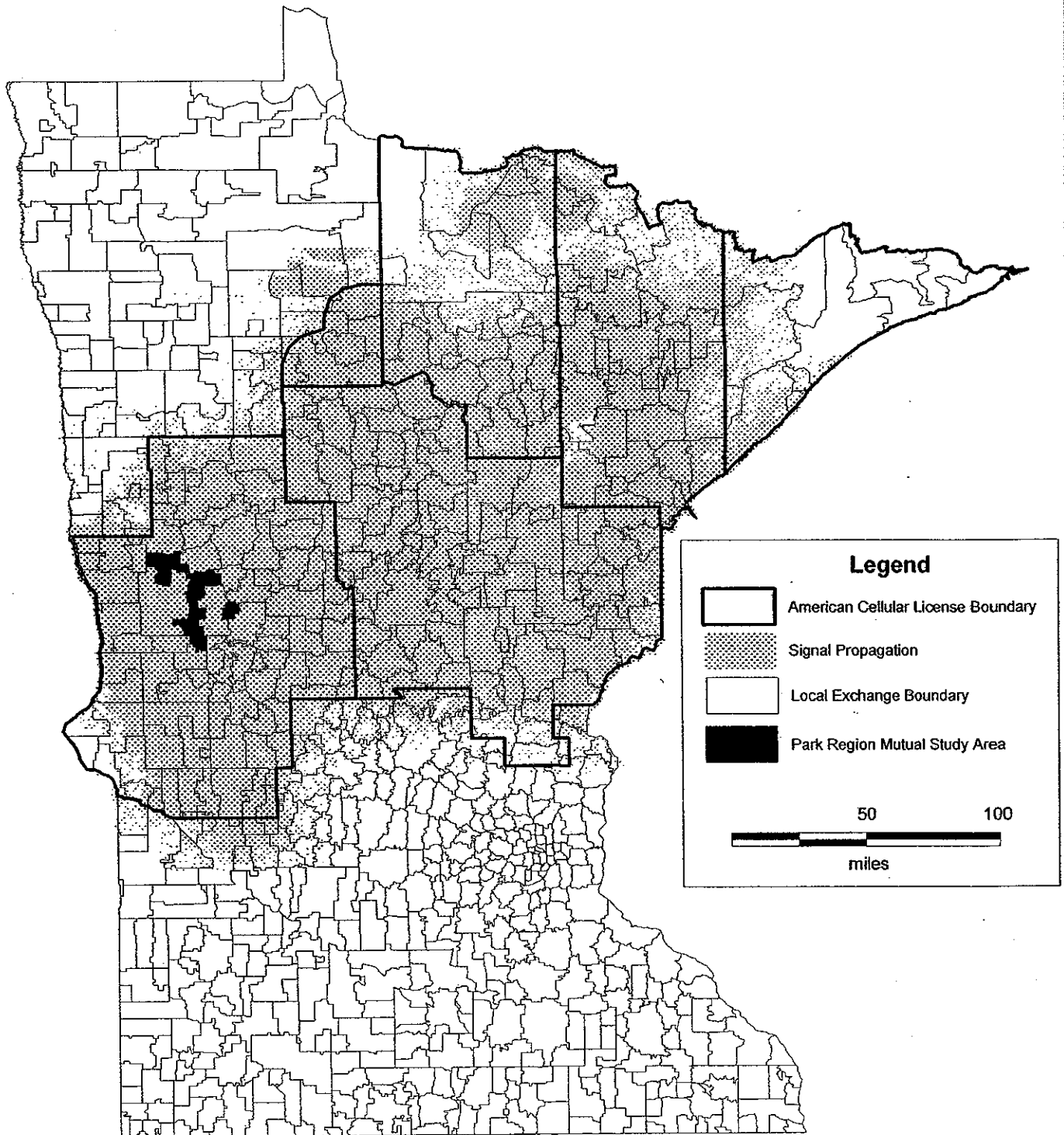
**Osakis Telephone Company Study Area
and American Cellular Corporation's Minnesota Licensed Areas**



DOBSON
COMMUNICATIONS CORPORATION



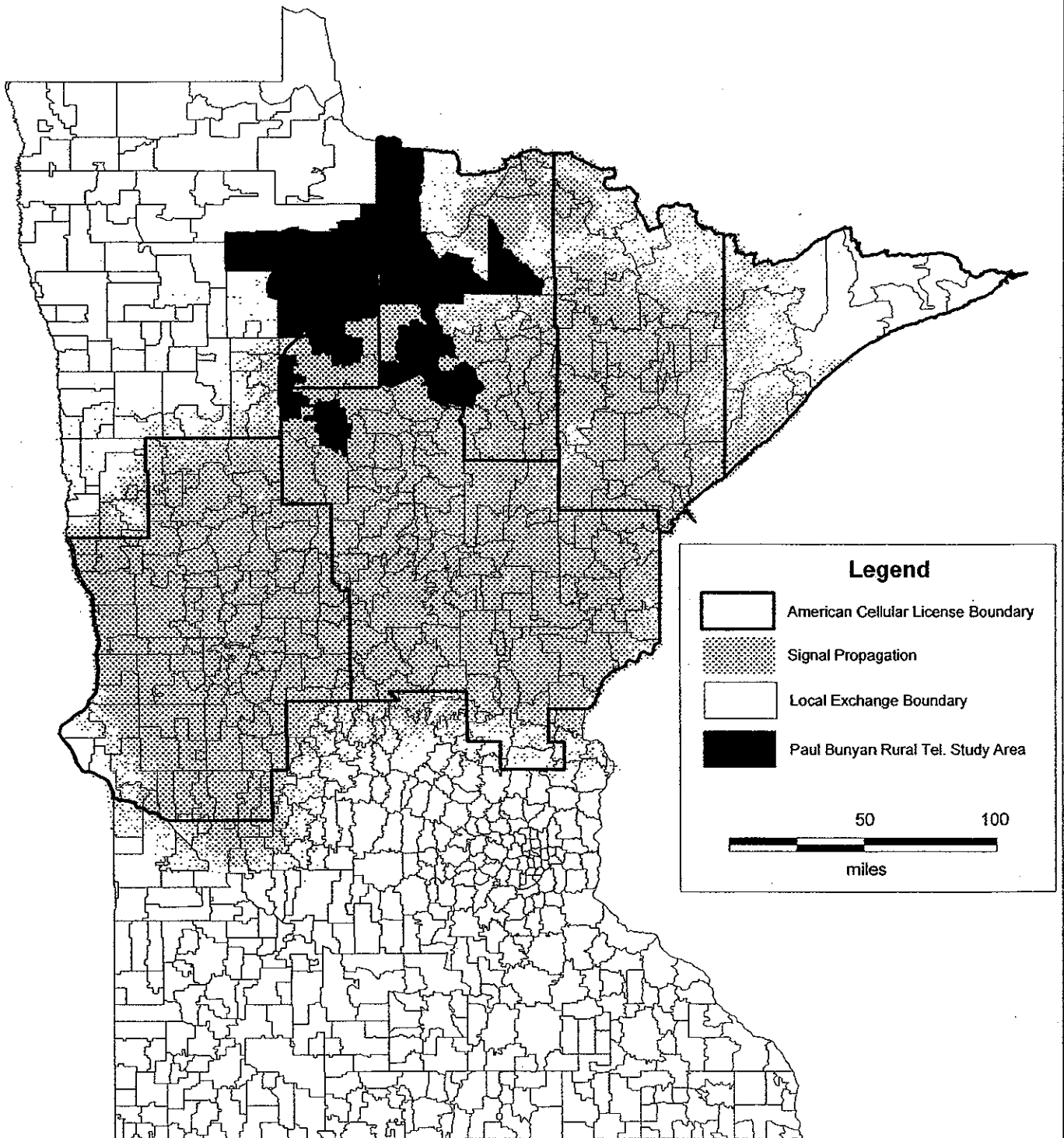
**Park Region Mutual Telephone Company Study Area
and American Cellular Corporation's Minnesota Licensed Areas**



DOBSON
COMMUNICATIONS CORPORATION



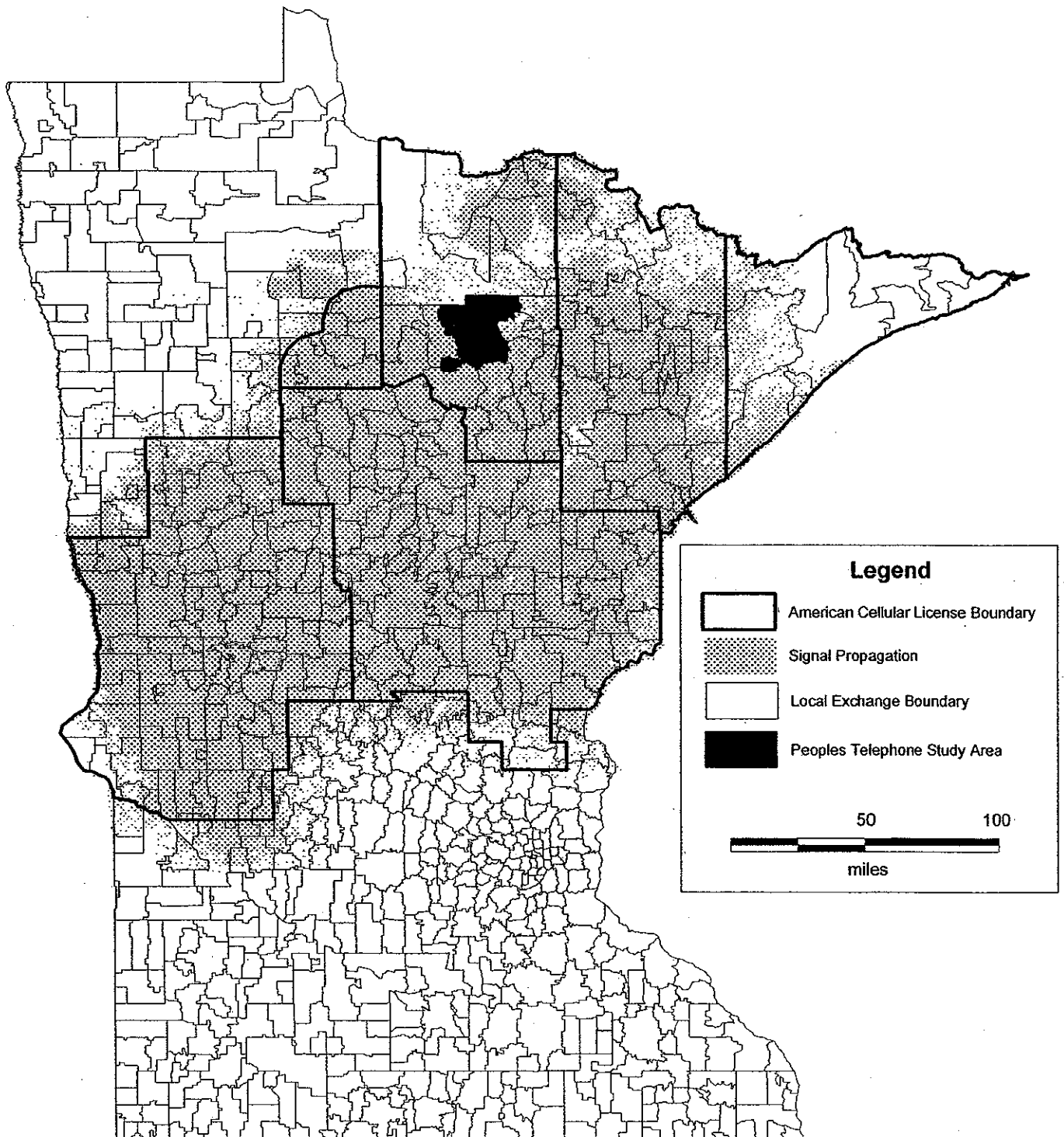
**Paul Bunyan Rural Telephone Company Study Area
and American Cellular Corporation's Minnesota Licensed Areas**



DOBSON
COMMUNICATIONS CORPORATION



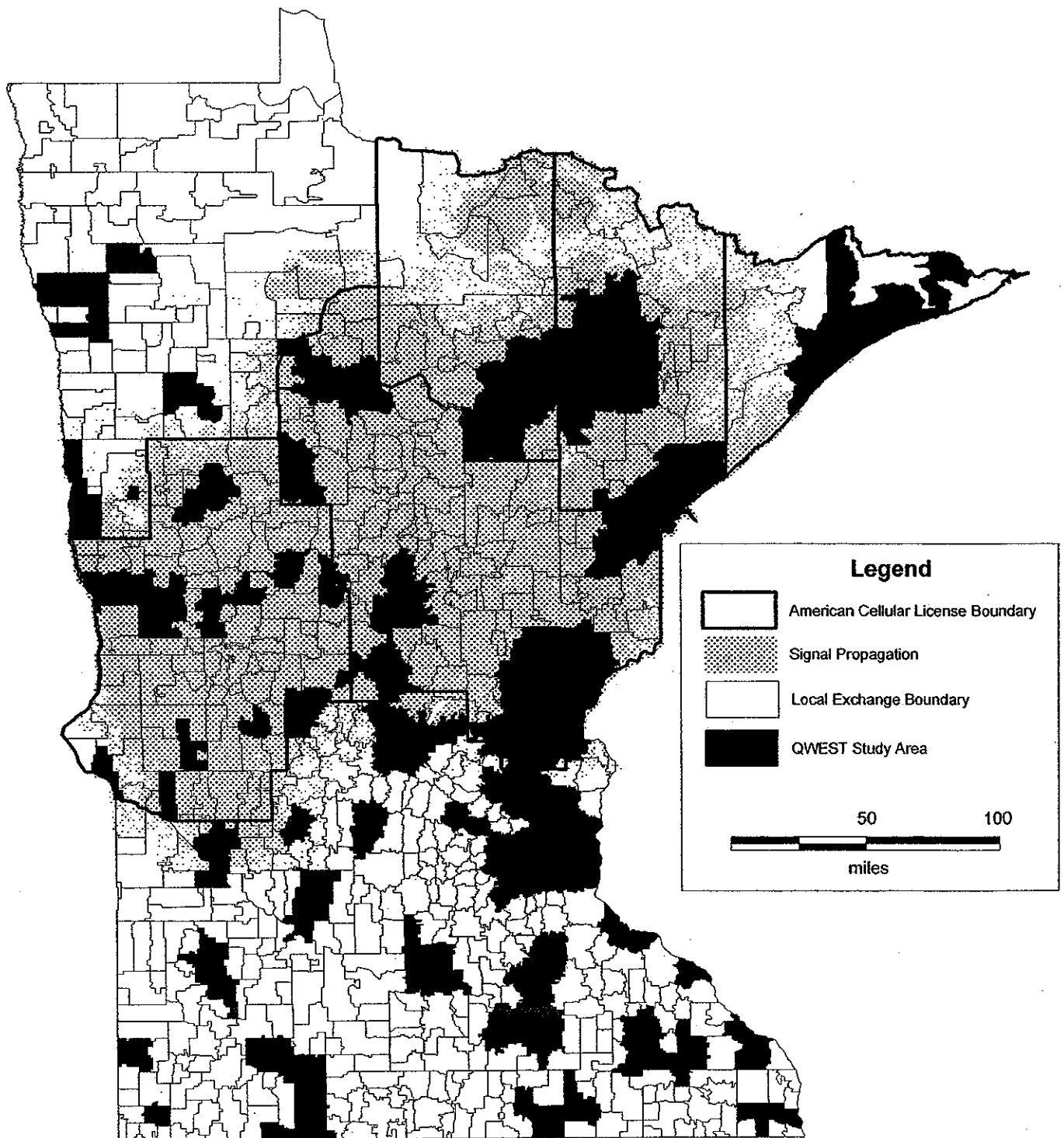
**Peoples Telephone Company of MN Study Area
and American Cellular Corporation's Minnesota Licensed Areas**



DOBSON
COMMUNICATIONS CORPORATION



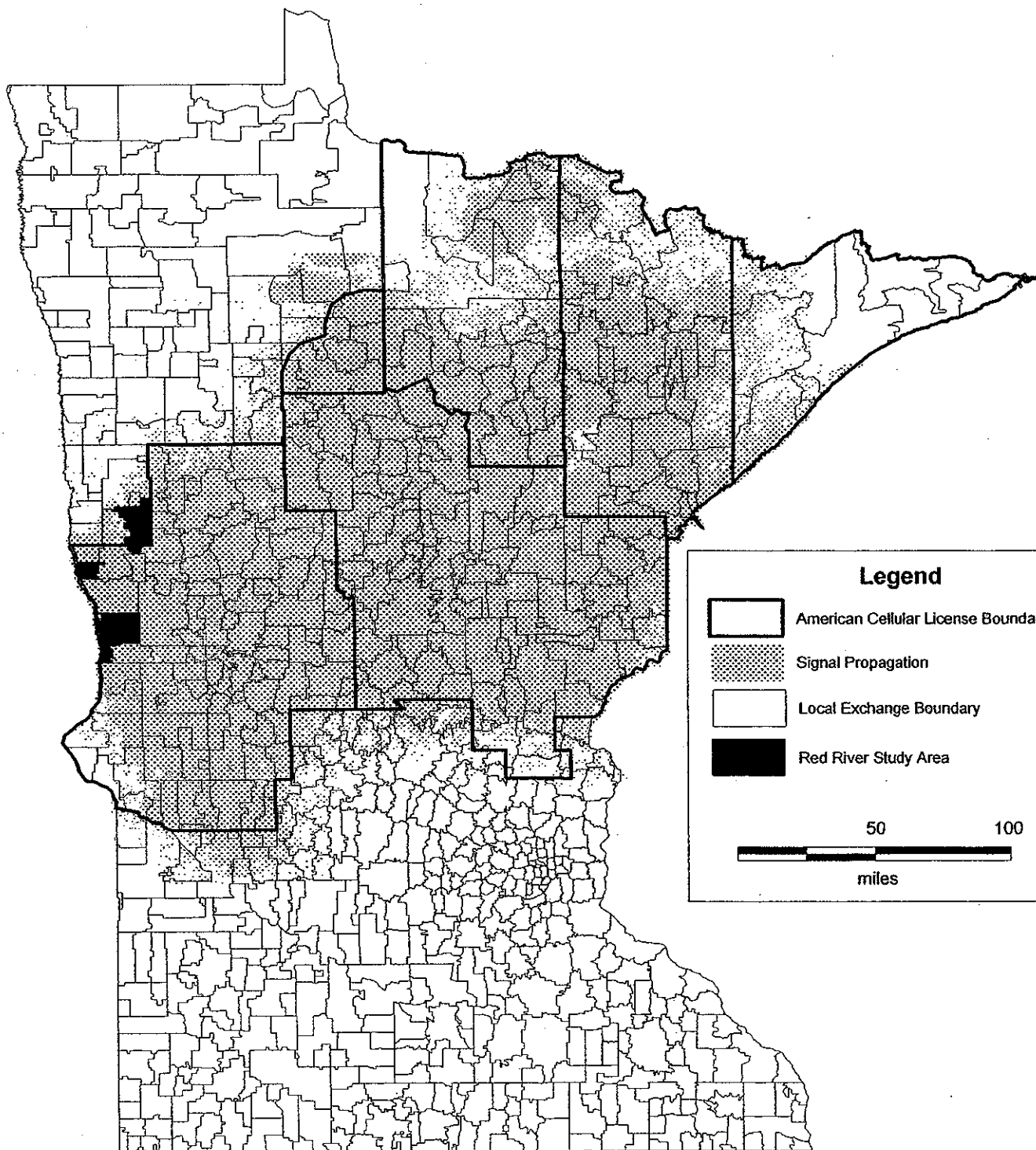
**QWEST Corporation - MN Study Area
and American Cellular Corporation's Minnesota Licensed Areas**



DOBSON
COMMUNICATIONS CORPORATION



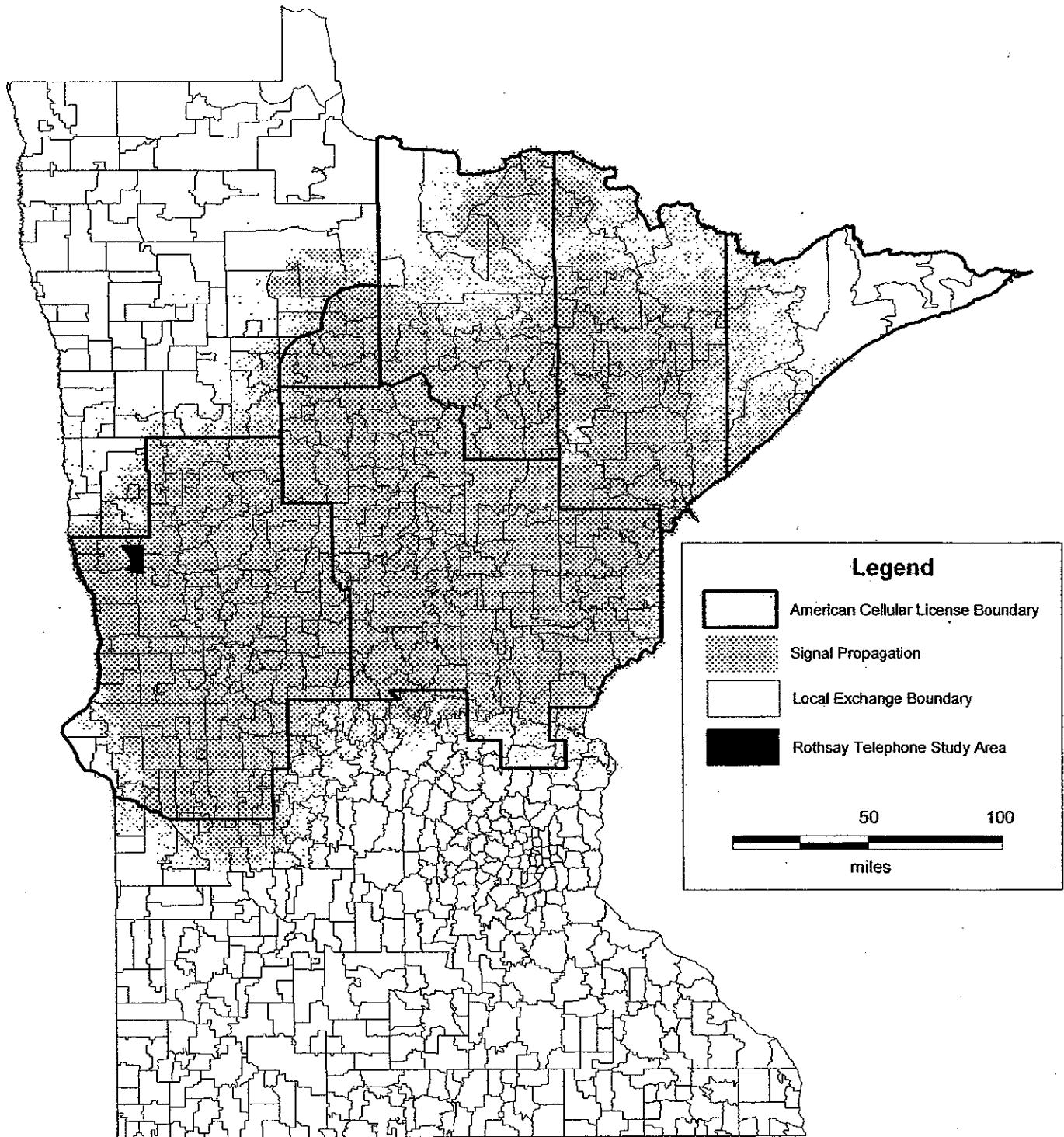
**Red River Rural Telephone Association Study Area
and American Cellular Corporation's Minnesota Licensed Areas**



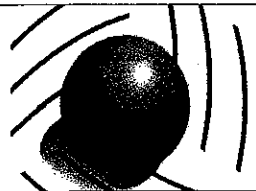
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COMMUNICATIONS CORPORATION



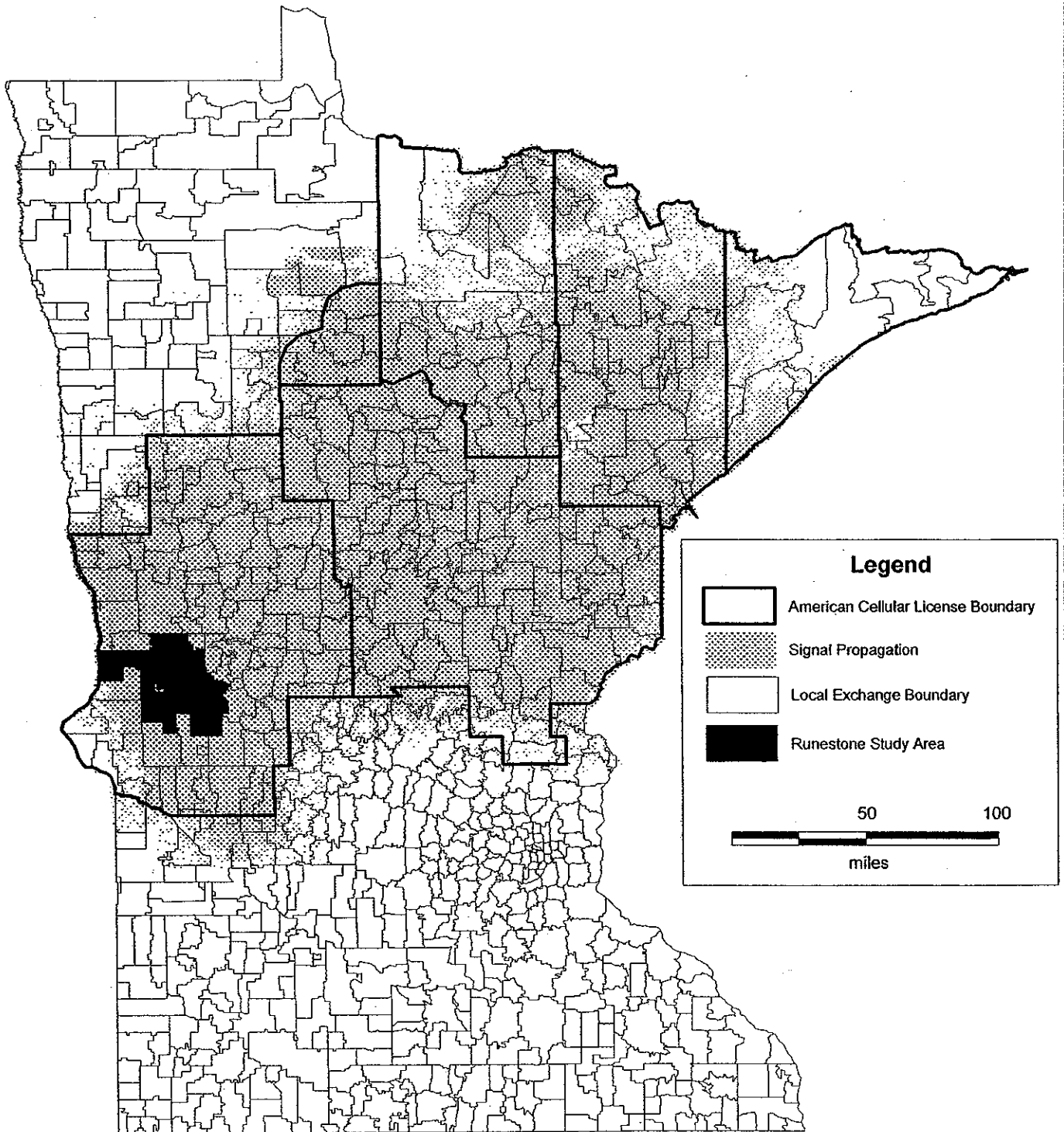
**Rothsay Telephone Association Study Area
and American Cellular Corporation's Minnesota Licensed Areas**



DOBSON
COMMUNICATIONS CORPORATION



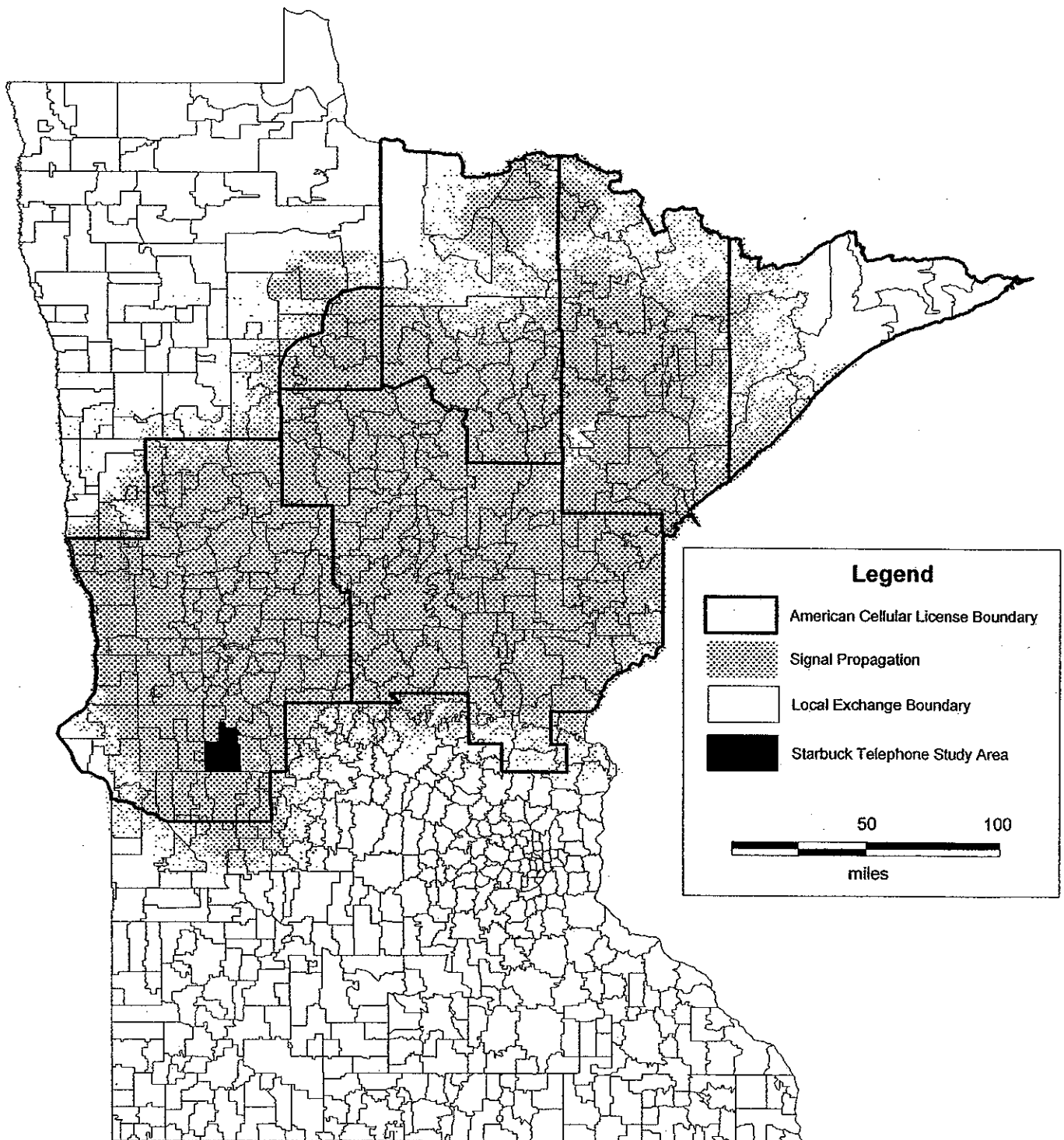
**Runestone Telephone Association Study Area
and American Cellular Corporation's Minnesota Licensed Areas**



DOBSON
COMMUNICATIONS CORPORATION



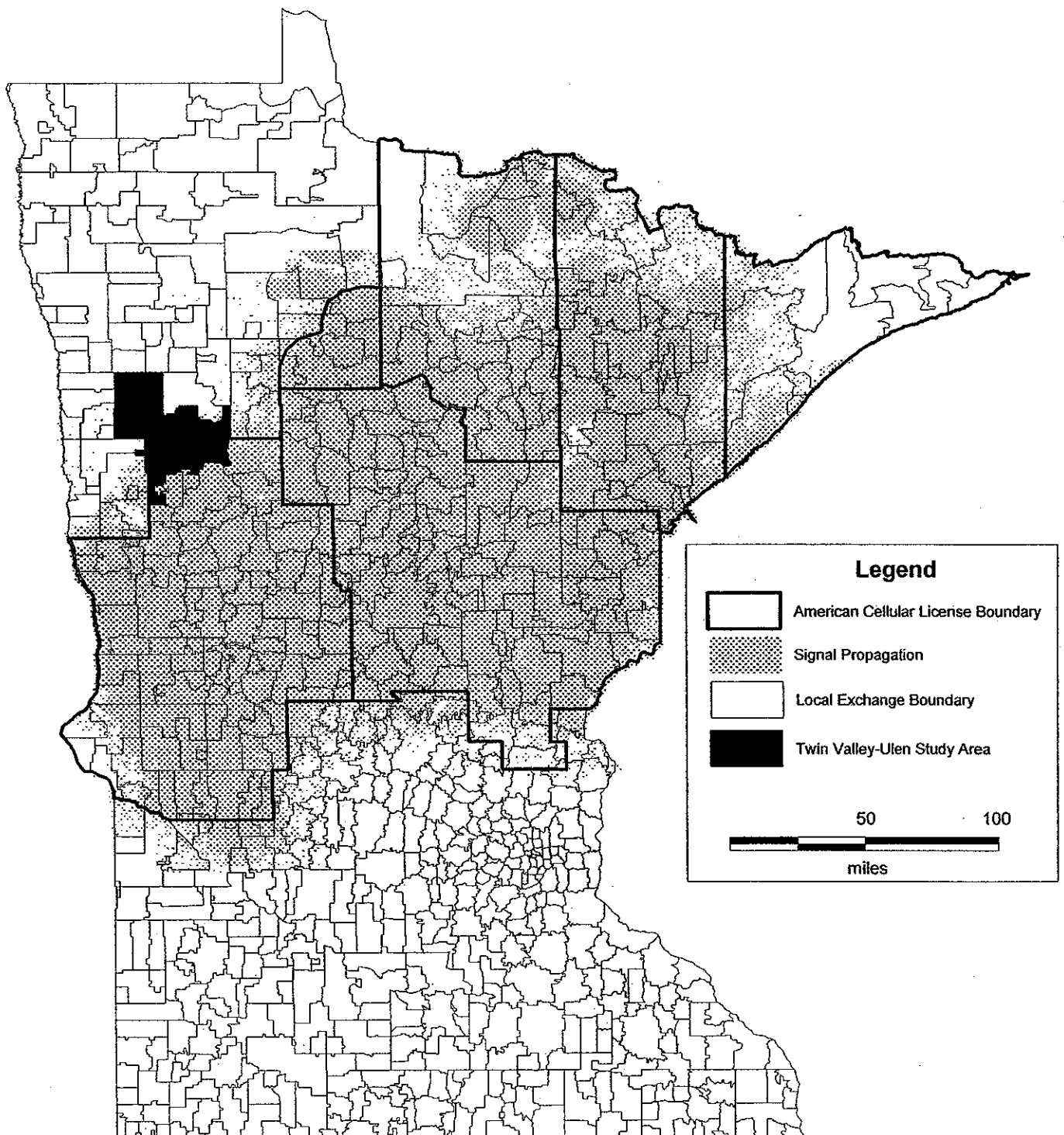
**Starbuck Telephone Company Study Area
and American Cellular Corporation's Minnesota Licensed Areas**



DOBSON
COMMUNICATIONS CORPORATION



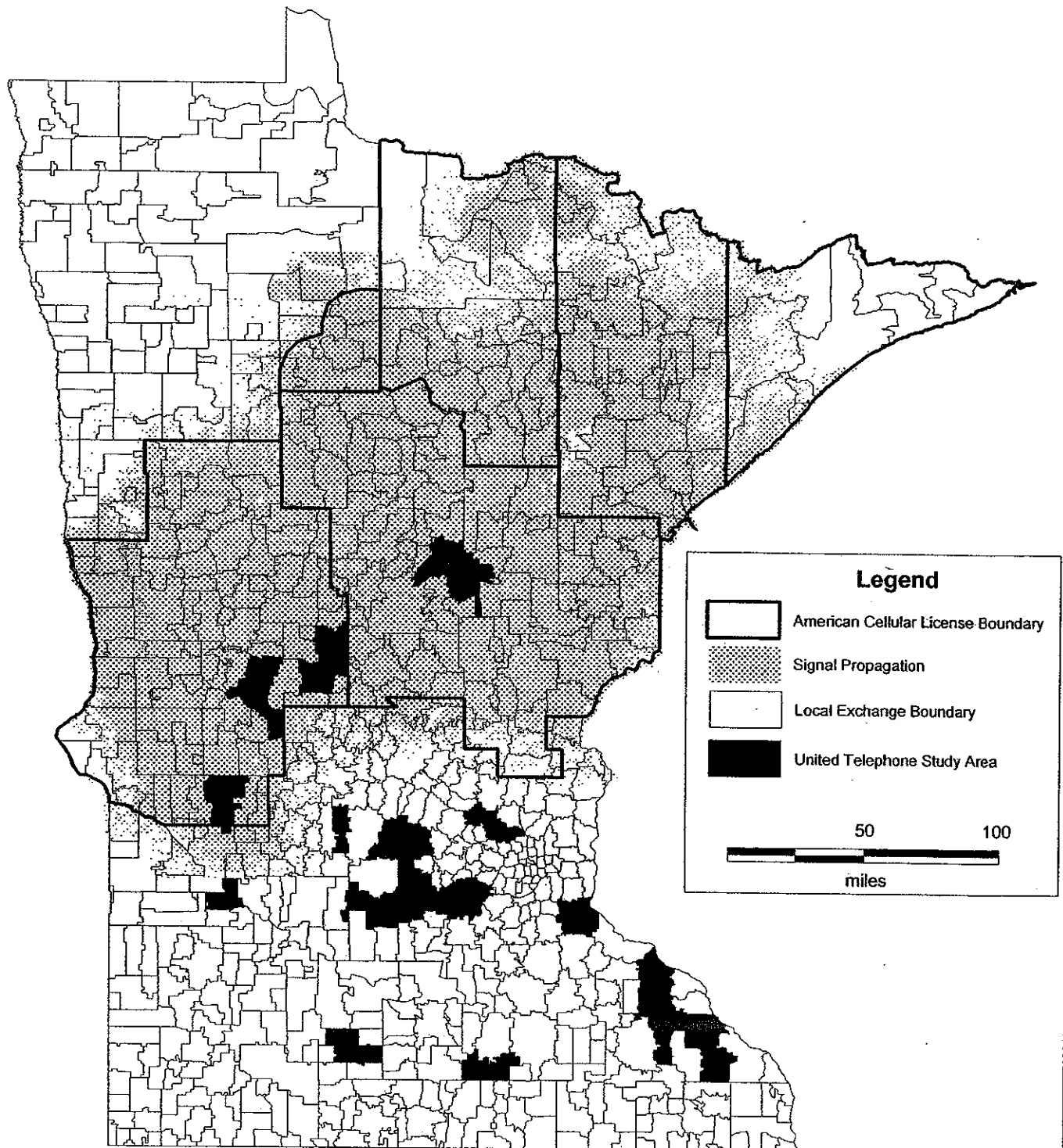
**Twin Valley - Ulen Telephone Company Study Area
and American Cellular Corporation's Minnesota Licensed Areas**



DOBSON
COMMUNICATIONS CORPORATION



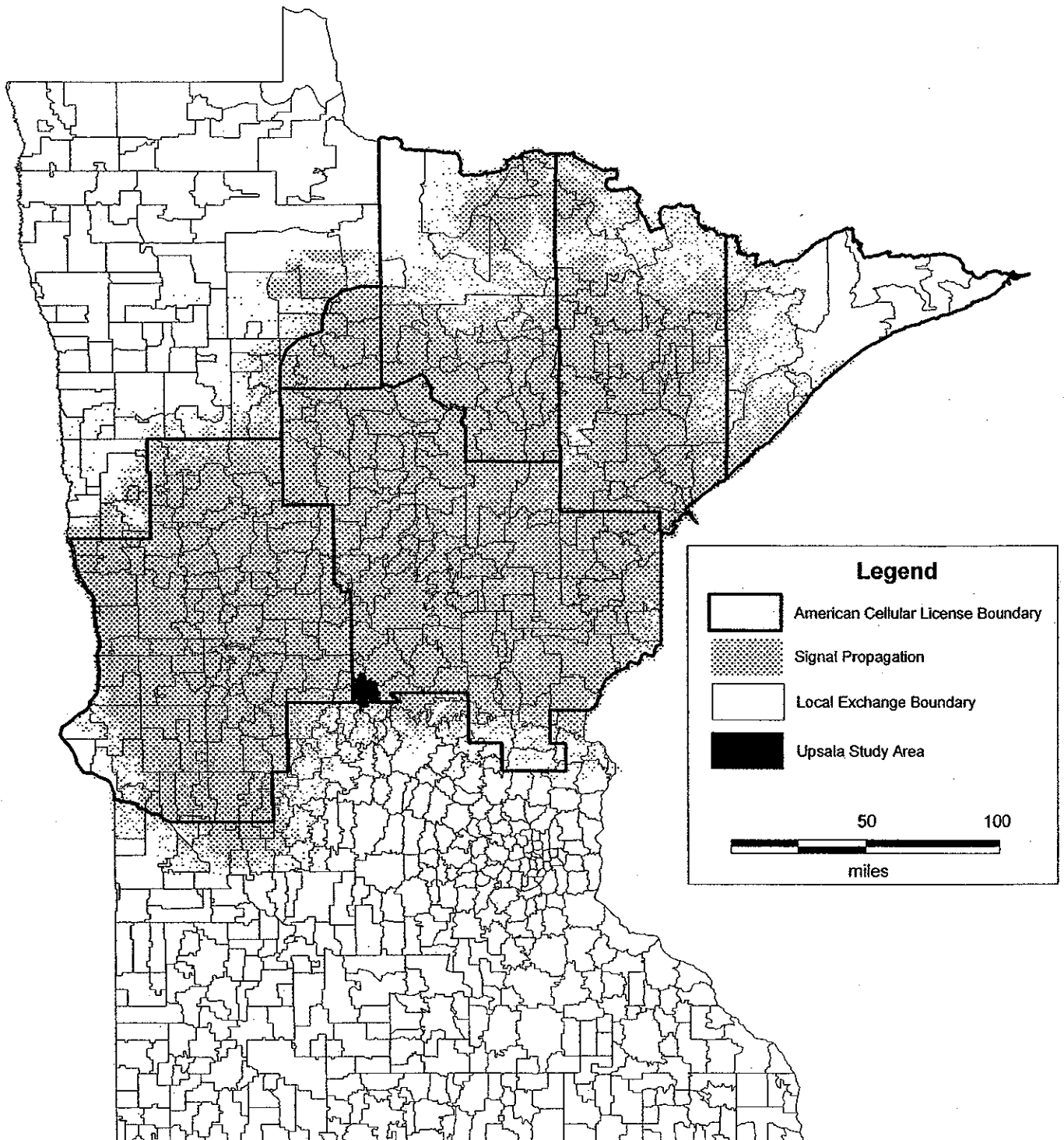
**United Telephone Company of Minnesota Study Area
and American Cellular Corporation's Minnesota Licensed Areas**



DOBSON
COMMUNICATIONS CORPORATION



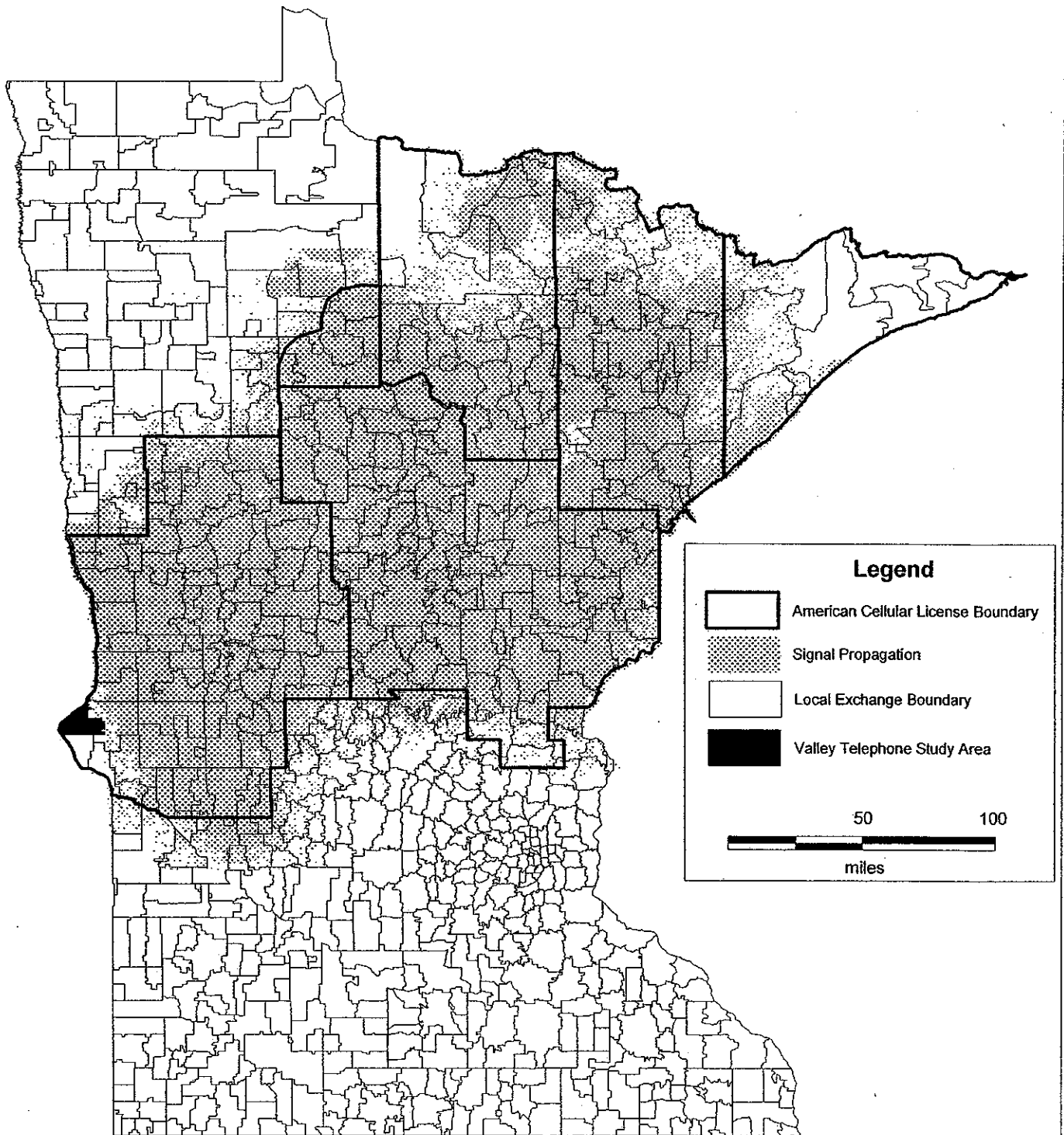
**Upsala Cooperative Telephone Association Study Area
and American Cellular Corporation's Minnesota Licensed Areas**



DOBSON
COMMUNICATIONS CORPORATION



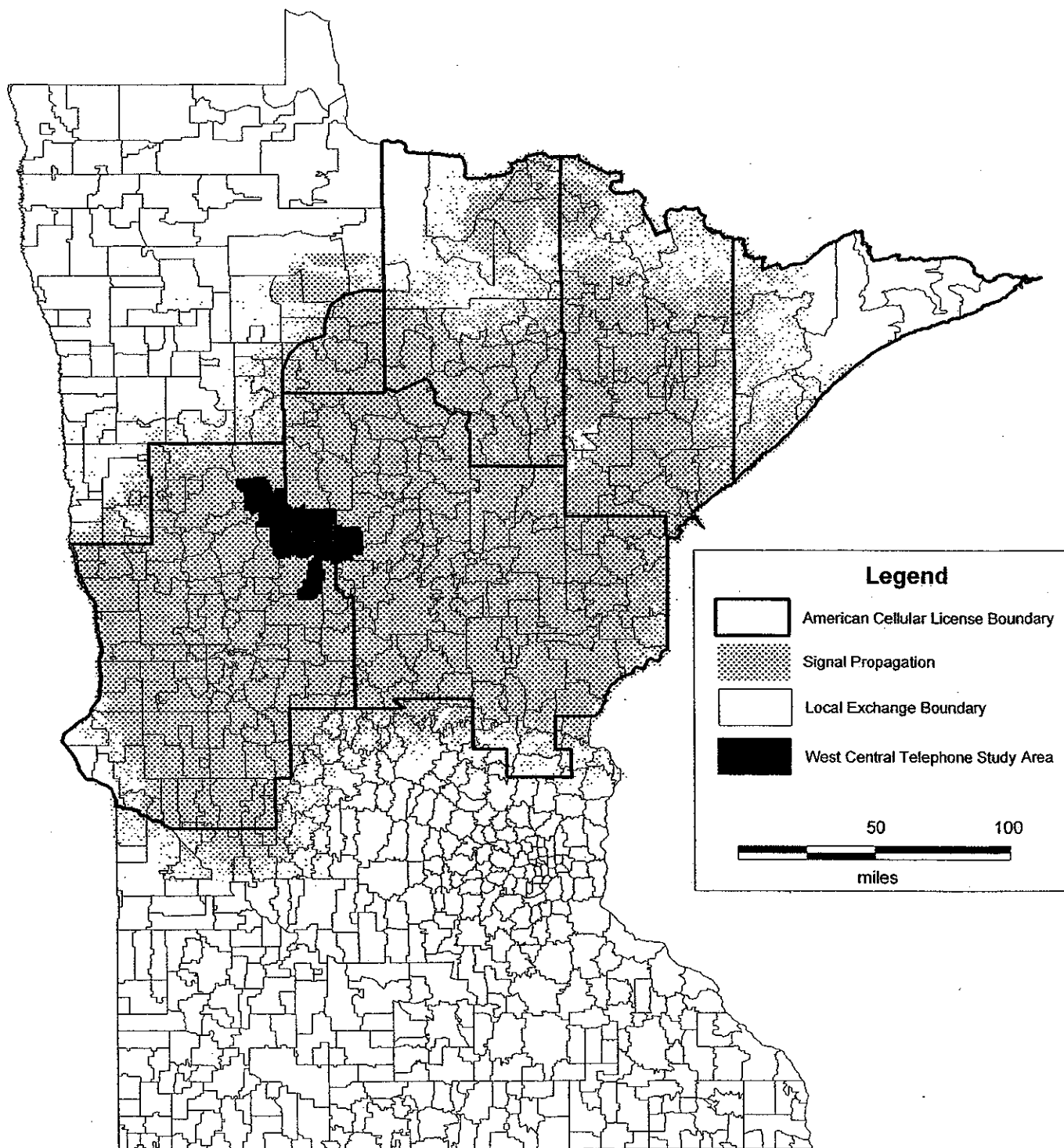
**Valley Telephone Company - MN Study Area
and American Cellular Corporation's Minnesota Licensed Areas**



DOBSON
COMMUNICATIONS CORPORATION



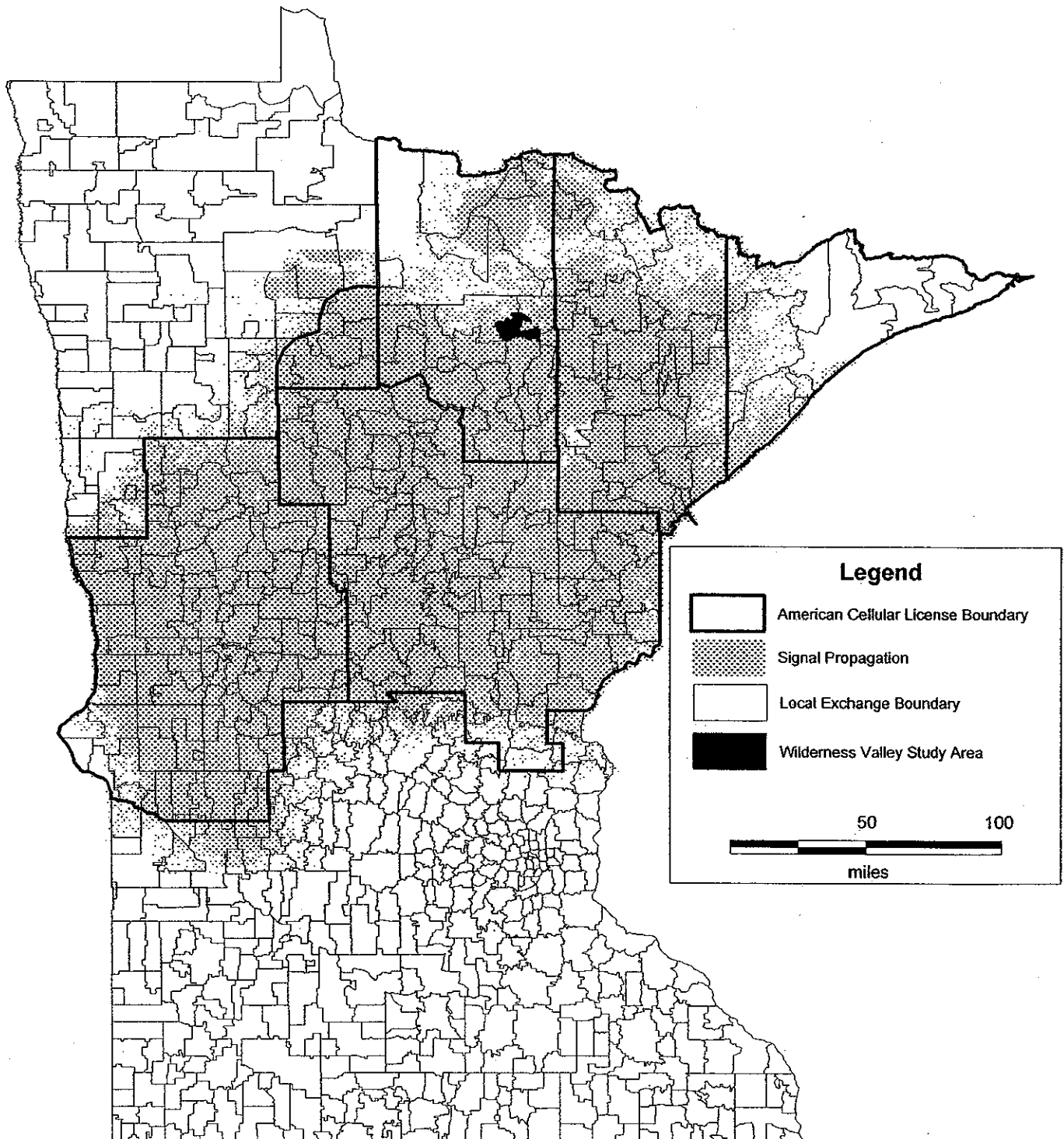
**West Central Telephone Association Study Area
and American Cellular Corporation's Minnesota Licensed Areas**



DOBSON
COMMUNICATIONS CORPORATION



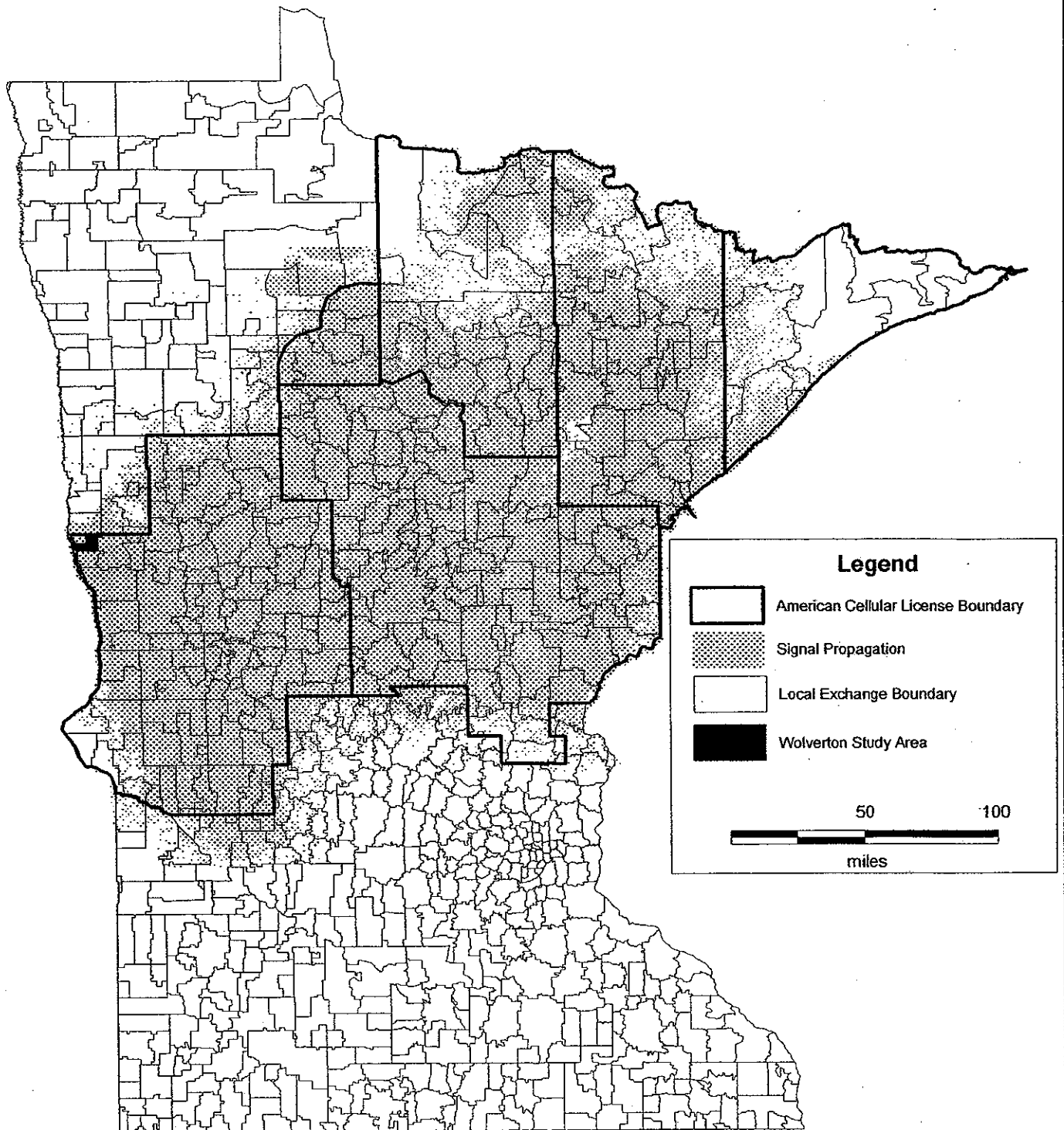
**Wilderness Valley Telephone Company, Inc. Study Area
and American Cellular Corporation's Minnesota Licensed Areas**



DOBSON
COMMUNICATIONS CORPORATION



**Wolverton Telephone Company Study Area
and American Cellular Corporation's Minnesota Licensed Areas**



ATTACHMENT 5

ACC's Proposed Advertising Plan for the Designated Areas

American Cellular Corporation ("ACC") submits the following advertising plan in support of the Company's Petition for Designation as an Eligible Telecommunications Carrier.

Description of Available Universal Service Offerings and Rates

ACC offers the following telecommunications services to all consumers throughout its designated service areas:

- Voice grade access to the public switched telephone network;
- Unlimited local usage free of per minute charges;
- Dual tone multi-frequency signal or its functional equivalent;
- Single party service or its functional equivalent;
- Access to emergency service;
- Access to operator services;
- Access to interexchange service;
- Access to directory assistance; and
- Toll blocking without charge.

Basic Universal Service Offering

Monthly Fee	-	\$20.29 per month (excluding taxes and governmental assessments)
Activation Charge	-	There is a \$45.00 activation charge.
Customer Premises Equipment		\$5.00 per month
Long Distance Rates	-	10 ¢ per minute to all 50 states 25 ¢ per minute to Canada
International Calling	-	Rates vary by destination

Optional Features

Voice Mail	-	\$4.95 per month
Call Waiting	-	\$2.00 per month
Call Forwarding	-	\$2.00 per month
Six-Way Conference Calling	-	\$2.99 per month
Caller ID		\$2.00 per month
Directory Assistance	-	\$1.25 per listing
International Dialing Discount		\$4.99 per month
Protection Plus		\$4.99 per month

Subsidized discounts for Lifeline and Link-Up Services are available to customers meeting certain low income criteria.

Geographic Areas Where Services are Available

ACC offers its universal service offerings to customers within its designated areas.

Medium of Publication

ACC proposes to advertise using media of general distribution covering ACC's designated service areas in Minnesota. In addition, ACC will advertise on the Company's website (www.celloneusa.com)

See Attached Exhibit 1.

Size and Type of Newspaper Advertising

Newspaper advertising will be approximately 4½" wide by 3½" long. Size may vary depending upon the newspaper.

ATTACHMENT 6

Minnesota Service Plans Eligible for Universal Service Funding

Basic Universal Service Offering

\$20.29 per month

Unlimited local usage free of per minute charges

Toll charges \$0.10 per minute to all 50 states

Canada toll charges \$0.25 per minute

Customer Premises Equipment \$5.00 per month

GSM Local 250

\$30.00 per month

250 Anytime Minutes

No Off-Peak Minutes

Toll Charges \$0.15 per minute

Roaming Charges \$0.50 per minute on all other GSM networks

Additional Minutes - \$0.50 per minute

GSM Local 250 Partner

\$20.00 per month

No Anytime Minutes

Off-Peak Minutes - Shares with the GSM Local 200 Host

Toll Charges \$0.15 per minute

Roaming Charges \$0.50 per minute on all other GSM networks

Additional Minutes - \$.50 per minute

GSM Local 600

\$40.00 per month

600 Anytime Minutes

Unlimited Off-Peak Minutes

No Toll Charges

Roaming Charges \$0.35 per minute on all other GSM networks

Additional Minutes - \$0.35 per minute

GSM Local 600 Partner

\$20.00 per month

No Anytime Minutes

Off-Peak Minutes - Shares with the GSM Local 600 Host

No Toll Charges

Roaming Charges \$0.35 per minute on all other GSM networks

Additional Minutes - \$0.35 per minute

GSM Local Unlimited PLUS

\$50.00 per month

Unlimited Anytime Minutes plus 100 off network minutes included

Off Peak Minutes - Not Applicable

No Toll Charges

Overage Roaming Charges \$0.35 per minute on all other GSM networks, includes toll (after the 100 minutes are used)

Additional Minutes – Not Applicable

GSM Local Unlimited Plus Partner

\$45.00 per month

Anytime Minutes – Shares the unlimited bucket and the 100 additional minutes

Off Peak Minutes - Not Applicable

No Toll Charges

Overage Roaming Charges \$0.35 per minute on all other GSM networks includes toll (after the 100 minutes are used)

Additional Minutes - \$0.35

GSM Promotional 750

\$40.00 per month

1,000 Anytime Minutes

Off Peak Minutes – Not Applicable (none included in the package)

No Toll Charges

No Roaming Charges

Additional Minutes - \$0.35

GSM National 300

\$35.00 per month

300 Anytime Minutes

Unlimited Off Peak Minutes in home calling area

Unlimited Mobile to Mobile Calling on the Dobson Network

No Toll Charges

No Roaming Charges

Additional Minutes - \$0.35

GSM National 450

\$40.00 per month

450 Anytime Minutes

Unlimited Off Peak Minutes in home calling area

Unlimited Mobile to Mobile Calling on the Dobson Network

No Toll Charges

No Roaming Charges

Additional Minutes - \$0.35

GSM National 600

\$50.00 per month

600 Anytime Minutes

Unlimited Off Peak Minutes in home calling area

Unlimited Mobile to Mobile Calling on the Dobson Network

No Toll Charges

No Roaming Charges

Additional Minutes - \$0.35

GSM National 900

\$60.00 per month

900 Anytime Minutes

Unlimited Off Peak Minutes in home calling area

Unlimited Mobile to Mobile Calling in home calling area

No Toll Charges

No Roaming Charges

Additional Minutes - \$0.35

GSM National 1250

\$80.00 per month

1,250 Anytime Minutes

Unlimited Off Peak Minutes in home calling area

Unlimited Mobile to Mobile Calling in home calling area

No Toll Charges

No Roaming Charges

Additional Minutes - \$0.35

GSM National 1,700

\$100.00 per month

1,700 Anytime Minutes

Unlimited Off Peak Minutes in home calling area

Unlimited Mobile to Mobile Calling in home calling area

No Toll Charges

No Roaming Charges

Additional Minutes - \$0.35

GSM National 2,500

\$150.00 per month

2,500 Anytime Minutes

Unlimited Off Peak Minutes in home calling area

Unlimited Mobile to Mobile Calling in home calling area

No Toll Charges

No Roaming Charges

Additional Minutes - \$0.35

GSM National 3,500

\$200.00 per month

3,500 Anytime Minutes

Unlimited Off Peak Minutes in home calling area

Unlimited Mobile to Mobile Calling in home calling area

No Toll Charges

No Roaming Charges

Additional Minutes - \$0.35

GSM National Partner

\$9.99 per month

Anytime Minutes – Partners for GSM National Plans with MRC \$60 or greater

Off Peak Minutes – Shares with applicable host plan

Calling – Shares with applicable host plan

No Toll Charges

No Roaming Charges

Additional Minutes - \$0.35

GSM National Partners

\$20.00 per month

Anytime Minutes – Partner for the \$35, \$40 and \$50 GSM National Plans

Off Peak Minutes – Shares with applicable host plan

Calling – Shares with applicable host plan

No Toll Charges

No Roaming Charges

Additional Minutes - \$0.35

TalkUSA 250

\$40.00 per month

250 Anytime Minutes

Unlimited Off Peak Minutes on Dobson/ACC networks

Toll Charges – Not Applicable

Roaming Charges – Not Applicable

Additional Minutes - \$0.35

TalkUSA 400

\$50.00 per month

400 Anytime Minutes

Unlimited Off Peak Minutes on Dobson/ACC networks

Toll Charges – Not Applicable

Roaming Charges – Not Applicable

Additional Minutes - \$0.35

TalkUSA 600

\$70.00 per month

600 Anytime Minutes

Unlimited Off Peak Minutes on Dobson/ACC networks

Toll Charges -- Not Applicable

Roaming Charges -- Not Applicable

Additional Minutes - \$0.35

TalkUSA Partner

\$20.00 per month

Shares Anytime Minutes with host

Shares Off Peak Minutes with applicable host plan

Toll Charges -- Not Applicable

Roaming Charges -- Not Applicable

Additional Minutes - \$0.35

ATTACHMENT 7

Population Density Analysis

Company Name	Service Area	Total Area (in Square Miles)	Total Population	Population Density (per Square Mile)
Paul Bunyan Rural Tel. Coop.	Requesting Designation	9,309	1,778	5.23
	Not Requesting Designation			
Red River Rural Telephone Assoc.	Requesting Designation	165	1283	7.77
	Not Requesting Designation			

ATTACHMENT 8

Underlying Data for Population Density Analysis

Paul Bunyan Rural Tel. Coop. - Seeking Designation	Wire Center	Square Miles	Population
	BECDMNXB	94	508
	DRRVMNXD	255	3916
	INGRMNXI	171	750
	LAPTMNXL	203	2424
	NOMEMNXN	1437	1078
	SLWVMNXS	78	1006
	SOLKMNXS	232	377
	TRRVMNXT	139	2239
	Total	2609	12298
Population Density			

Paul Bunyan Rural Tel. Coop. - NonSeeking Designation	Wire Center	Square Miles	Population
	KLHRMNXX	617	1570
	PNMHMNXP	728	1322
	PPSKMNXP	224	2237
	RDLKMNXR	209	4180
	Total	1778	9309
Population Density			

Red River Rural Telephone Assoc. - Seeking Designation	Wire Center	Square Miles	Population
	ABRCNDXA	48	183
	FAMTNDBC	196	972
	Total	244	1155
Population Density			

Red River Rural Telephone Assoc. - Not Seeking Designation	Wire Center	Square Miles	Population
	BRVIMNXR	38	247
	RLIGMNXR	127	1036
	Total	165	1283
Population Density			

ATTACHMENT 9

High-Cost Certification Letter

Irene Flannery
Vice President – High Cost
& Low Income Division
Universal Service Administrative Company
2120 L Street, N.W.
Suite 600
Washington, D.C. 20037

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 – 12th Street, S.W.
Washington, D.C. 20554

Irene Flannery
Vice President – High Cost
& Low Income Division
Universal Service Administrative Company
444 Hoes Lane
RRC 4A1060
Piscataway, NJ 08854

**Re: CC Docket No. 96-45, Federal-State Joint Board on Universal Service
American Cellular Corporation Certification, 47 C.F.R. §§ 54.313 & 54.314**

Ms. Dortch and Ms. Flannery:

The Minnesota Public Utilities Commission ("MPUC") has designated American Cellular Corporation ("ACC") as an eligible telecommunications carrier ("ETC") in the State of Minnesota. The MPUC's Order designating ACC as an ETC is enclosed as **Exhibit A**.

This letter is MPUC's certification to the Federal Communications Commission ("FCC") and Universal Service Administrative Company ("USAC") that all federal high-cost universal service support provided to ACC in Minnesota will be used only for its intended purposes under Section 254(e) of the Telecommunications Act of 1996 ("Act").

ACC has certified to the MPUC that all federal high-cost universal service support received by the Company in Minnesota will be used pursuant to Section 254(e) of the Act.

Accordingly, MPUC hereby certifies that all federal high-cost universal service support received by ACC will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. This letter serves as a supplemental certification to the annual certification filed by MPUC, pursuant to FCC Rules 54.313(c) and 54.314(c). This supplemental certification is to ensure that ACC is eligible to receive high-cost universal service support beginning on the date of the Company's ETC designation.

If you have any questions or concerns regarding this certification, please contact me at your convenience.

By the Commission

Secretary to the Commission

Enclosure

cc: American Cellular Corporation

AFFIDAVIT OF SERVICE

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

In the Matter of American Cellular Corporation
Petition for Designation as an Eligible
Telecommunications Carrier and Redefinition
of Rural Telephone Company Service Area
Requirement

Docket No. _____

Sandra J. Cambronne, being first duly sworn on oath, deposes and states that on the 1st day of July, 2005, copies of the Verified Petition for Designation as an Eligible Telecommunications Carrier and Redefinition of Rural Telephone Company Service Area Requirement for Certain Service Areas were served personally or by U.S. Mail upon:

Personal Service

Dr. Burl W. Haar [original and 15 copies]
Executive Secretary
MN Public Utilities Commission
121 Seventh Place E, Suite 350
Saint Paul, MN 55101

Personal Service

Curt Nelson
OAG-RUD
900 BRM Tower
445 Minnesota Street
Saint Paul, MN 55101

Arrowhead Communications Corp.
P.O. Box 428
Hector, MN 55342-0428

Benton Cooperative Telephone Company
2220 – 125th Street NW
Rice, MN 56367

Callaway Telephone Company, Inc.
160 Second Avenue SW
Perham, MN 56573

Consolidated Telephone Company
1102 Madison Street
Brainerd, MN 56401-0972

Personal Service

Linda Chavez [4 copies]
Telephone Docket Coordinator
Minnesota Department of Commerce
85 Seventh Place East, Suite 500
Saint Paul, MN 55101

Richard Johnson
Moss & Barnett, PA
4800 Norwest Center
90 South Seventh Street
Minneapolis, MN 55402

Arvig Telephone Company
525 Junction Road
Madison, WI 53717

Blackduck Telephone Company
P.O. Box 325
Blackduck, MN 56630-0325

CenturyTel of Minnesota, Inc.
333 North Front Street
LaCrosse, WI 56502-4800

Crosslake Communications – Telephone Fund
P.O. Box 70
Crosslake, MN 56442-0070

Eagle Valley Telephone Company
P.O. Box 428
Hector, MN 55342-0428

Emily Cooperative Telephone Company
P.O. Box 100
Emily, MN 56447-0100

Federated Utilities, Inc.
405 Second Avenue E
P.O. Box 156
Chokio, MN 56221-0156

Johnson Telephone Company
201 First Avenue NE
P.O. Box 39
Remer, MN 56672-0039

Lowry Telephone Company
123 Memorial Drive
P.O. Box 336
Hoffman, MN 56339

Mid-State Telephone Company
525 Junction Road
Madison, WI 53717

Northern Telephone Company
1396 County Road 25
Wawina, MN 55736

The Park Region Mutual Telephone Company
100 Main Street
P.O. Box 277
Underwood, MN 56386-0277

The Peoples Telephone Co. of Bigfork
P.O. Box 45
Parkers Prairie, MN 56361-0045

East Ottertail Telephone Company
160 Second Avenue SW
Perham, MN 56573

Federal Telephone Cooperative
405 Second Avenue E
P.O. Box 156
Chokio, MN 56221-0156

Gardonville Coop. Telephone Assn.
P.O. Box 187
Brandon, MN 56315-0187

Loretel Systems, Inc.
P.O. Box 428
Hector, MN 55342-0428

Melrose Telephone Company
P.O. Box 100
Melrose, MN 56352-0100

Midwest Telephone Co.
P.O. Box 45
Parkers Prairie, MN 56361-0045

Osakis Telephone Company
P.O. Box 45
Parkers Prairie, MN 56361-0045

Paul Bunyan Rural Telephone Company
1831 Anne Street NW
Bemidji, MN 56601

Red River Telephone Association
506 Broadway
P.O. Box 136
Abercrombie, NE 58001

Rothsay Telephone Company
137 First NW
P.O. Box 158
Rothsay, MN 56579-0158

Starbuck Telephone Company
227 So. Main Street
Clara City, MN 56222-0800

Upsala Co-op Telephone Association
P.O. Box 366
Upsala, MN 56384-0366

West Central Telephone Association
P.O. Box 304
Sebeka, MN 56477-0304

Victor Dobras
Sprint
30 East Seventh Street, Suite 1630
Saint Paul, MN 55101-4901

Jason Topp
Qwest
200 South Fifth Street, Room 395
Minneapolis, MN 55402

Runestone Telephone Association
P.O. Box 336
Hoffman, MN 56339-0336

Twin Valley-Ulen Telephone Company
160 Second Avenue SW
Perham, MN 56573

Valley Telephone Company
100 Main Street
P.O. Box 277
Underwood, MN 56586-0277

Wolverton Telephone Company
P.O. Box 129
Wolverton, MN 56594-0129

Kevin Saville
Citizens/Frontier Communications
2378 Wilshire Blvd.
Mound, MN 55364

Wilderness Valley Telephone Company
7 Little Bear Point Road
Cook, MN 55723


Sandra J. Cambronne

Subscribed and sworn to before
me this 1st day of July, 2005


NOTARY PUBLIC

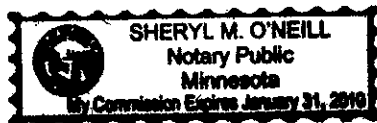


Exhibit B

August 4, 2005 Comments of the Minnesota Department of Commerce



**MINNESOTA
DEPARTMENT OF
COMMERCE**

EXHIBIT B

85 7th Place East, Suite 500
St. Paul, Minnesota 55101-2198
651.296.4026 FAX 651.297.1959 TTY 651.297.3067

August 4, 2005

Burl W. Haar
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, Minnesota 55101-2147

RE: Comments of the Minnesota Department of Commerce
Docket No. PT6458/M-05-1122

Dear Dr. Haar:

Attached are the comments of the Department of Commerce in the following matter:

American Cellular Corporation's Petition For Eligible Telecommunication Carrier
Status.

The petition was filed on July 5, 2005. The Petition was filed by:

Mark J. Ayotte
Briggs & Morgan
2200 IDS Center
80 South 8th Street
Minneapolis, MN 55402

The Department's recommendations are contained herein. The Department is available to answer any questions the Commission may have.

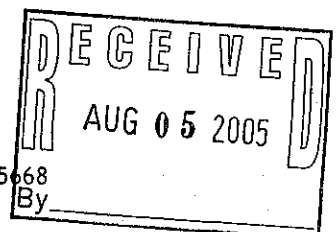
Sincerely,

KATHERINE DOHERTY
Rates Analyst

KD/sm
Attachment

Market Assurance: 1.800.657.3602
Energy Information: 1.800.657.3710
www.commerce.state.mn.us

Licensing: 1.800.657.3978
Unclaimed Property: 1.800.925.5668
An Equal Opportunity Employer





BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

**COMMENTS OF THE
MINNESOTA DEPARTMENT OF COMMERCE**

DOCKET NO. PT6458/M-05-1122

I. PROCEDURAL BACKGROUND

On July 1, 2005, American Cellular Corporation (ACC) submitted a petition seeking an Order from the Minnesota Public Utilities Commission (Commission) designating it as an eligible telecommunications carrier (ETC) for the purpose of receiving support from the federal universal service fund. In conjunction with its petition for ETC status, ACC requests that the Commission redefine certain of the service areas of the rural incumbent local exchange carriers in the territories in which it operates.

In addition, as a provider of Commercial Mobile Wireless Service, ACC is not subject to certification as a competitive local exchange carrier in Minnesota, and therefore requests a permanent variance of Minnesota Rule 7811.1400, subpart 2, which restricts an ETC designation to a "competitive local exchange carrier."

**II. RECENT FEDERAL COMMUNICATIONS COMMISSION (FCC) AND
MINNESOTA PUBLIC UTILITIES COMMISSION DECISIONS**

A. *THE FCC'S REPORT AND ORDER REGARDING ETC DESIGNATION*

On March 17, 2005, the Federal Communications Commission (FCC) released a Report and Order in the Matter of the Federal-State Joint Board on Universal Service. In the Order, the FCC adopted additional "mandatory requirements for ETC designation proceedings in which the

[Federal Communications] Commission acts pursuant to section 214(e)(6)¹ of the Communications Act of 1934, as amended.²

Specifically, the FCC stated its intent to require an ETC applicant (in a proceeding before the FCC) to fulfill the following requirements in order to satisfy its burden of proof necessary to obtain ETC designation:

1. Provide a five-year plan demonstrating how high-cost universal service support will be used to improve its coverage, service quality, or capacity in every wire center in which it seeks designation and in which it expects to receive universal service support;
2. Demonstrate its ability to remain functional in emergency situations.
3. Demonstrate that it will satisfy consumer protection and service quality standards.
4. Offer local usage plans comparable to those offered by the incumbent local exchange carrier ([I]LEC) in the areas for which it seeks designation; and
5. Acknowledge that it may be required to provide equal access if all other ETCs in the designated service area relinquish their designations pursuant to section 214(e)(4) of the Act.³

The FCC also made the additional requirements “applicable on a prospective basis to all ETCs previously designated by the [Federal Communications] Commission” and required that these ETCs submit evidence demonstrating how they comply with the five new requirements by October 1, 2006, at which time ETCs must submit their annual certification filings pursuant to 47 C.F.R §§ 54.313 and 54.315.

With regard to public interest determinations, the FCC adopted the “fact-specific public interest analysis it has developed in prior orders,”⁴ and found that it “must make an affirmative determination that such designation is in the public interest, regardless of whether the applicant seeks designation in an area served by a rural or non-rural carrier.”⁵

¹ Section 214(e)(6) provides for FCC designation of eligible telecommunications carriers in cases in which the carriers are not subject to the jurisdiction of a state commission,

² In the Matter of the Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Report and Order, March 17, 2005, para. 1.

³ Id., para. 2.

⁴ Id., para. 41.

⁵ Id., para. 42.

The FCC concluded that in making a public interest determination, it would consider the following:

1. A "cost-benefit analysis"⁶ of the designation, including consideration of the benefits of consumer choice, and an analysis of the advantages and disadvantages of particular service offerings by the applicant; and
2. An analysis of the potential for cream-skimming effects in rural areas.

With regard to a consideration of the impact of the designation on the size and sustainability of the high-cost fund, the FCC acknowledged that "analyzing the impact of one ETC on the overall fund may be inconclusive,"⁷ and thus declined to adopt a specific test. The FCC noted that "the Commission is considering in other proceedings, such as the *Rural Referral Proceeding*, how support is calculated for both rural incumbent LECs and ETCs."⁸ The FCC did, however, find that "per-line support received by the incumbent LEC" should be considered in its ETC analysis, and noted that "states making public interest determinations may properly consider the level of federal high-cost support to be received by ETCs."⁹

While the FCC "encouraged" state commissions to require the ETC applicants over which they have jurisdiction to meet the same conditions, to conduct a similar public interest analysis, and to impose the same annual certification and reporting requirements on ETCs that states have previously designated, it declined to mandate that they do so.

In addition, the FCC clarified that state commissions would continue to maintain the flexibility necessary to impose additional eligibility requirements on ETC applicants if they so choose, and reiterated that states may decline to file an annual certification or may withdraw an ETC's designation if the state believes that high-cost support is being used in a manner inconsistent with section 254 of the Act.¹⁰

⁶ Id., para. 44.

⁷ Id., para. 54.

⁸ Id.

⁹ Id., para. 55. The FCC noted, for example, that one relevant factor in considering whether or not it is in the public interest to designate additional ETCs designated in any area may be the level of per-line support provided to the area. If the per line level of support is "high enough," the state may be justified in limiting the number of ETCs in that study area.

¹⁰ Id., para. 62.

*B. MINNESOTA PUBLIC UTILITIES COMMISSION DETERMINATION¹¹
REGARDING THE ANNUAL CERTIFICATION OF ETCs' USE OF UNIVERSAL
FUNDS*

At its July 14, 2005 public meeting, in Docket No. P999/M-05-741, the Commission considered its process for conducting its annual review and certification of existing ETCs' use of federal universal service funds received, in light of the FCC's recent recommended guidelines.

The Commission determined that, beginning in 2006, it would require Minnesota ETCs to comply with the FCC-recommended annual certification requirements, with some modifications. Specifically, the Commission determined that it would require the following:

1. In 2006, each ETC should submit a two-year service quality improvement plan, including maps, detailing, at the service area level, the ETC's specific targets, its plans for meeting those targets, and associated projected costs. The plan should include the amount of universal service support received in the prior year. In 2007, and in each of the following years in which the applicant expects to receive universal service support from the federal fund, each ETC should submit progress reports on the ETC's two-year service quality improvement plan (and any necessary revisions or adjustments to the plan) - including maps detailing progress towards meeting its plan targets, an explanation of how much universal service support was received, and how the support was used to improve signal quality, coverage, or capacity; and an explanation regarding any network improvement targets that have not been fulfilled.
2. Detailed information on any outage lasting at least 30 minutes, for any service area in which an ETC is designated for any facilities it owns, operates, leases, or otherwise utilizes that potentially affect at least ten percent of the end users served in a designated service area, or that potentially affect a 911 facility. Specifically, the ETC's annual report must include: 1) the date and time of the onset of the outage; 2) a brief description of the outage and its resolution; 3) the particular services affected; 4) the geographic areas affected by the outage; 5) steps taken to prevent a similar situation in the future; and 6) the number of customers affected.
3. The number of requests for service from potential customers within its service areas that were unfulfilled for the past year. The ETC must also detail how it attempted to provide service to those potential customers, including the cost of construction and the charge assessed or proposed to the potential customer.

¹¹ The Department notes that a formal order incorporating the Commission's has not, at the time of this writing, been released.

4. Certification, in the form of an affidavit signed by a corporate officer, that the ETC is complying with applicable service quality standards and/or service quality and consumer protection commitments made by the ETC at the time of initial certification.
5. Certification, in the form of an affidavit signed by a corporate officer, that the ETC is able to function in emergency situations, i.e., has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations.¹²
6. For competitive wireline and wireless ETCs, certification, in the form of an affidavit signed by a corporate officer that the ETC is offering a local usage plan (i.e., a "basic universal service plan") comparable to the incumbent LEC in the relevant service areas; and a report of the number of customers subscribed to such plan.
7. Certification, in the form of an affidavit signed by a corporate officer, that the carrier acknowledges that the Commission may require it to provide equal access to long distance carriers in the event that no other eligible telecommunications carrier is providing equal access within the service area.

III. STATEMENT OF ISSUES

- Whether ACC has described its universal service offering(s) in enough detail and with sufficient evidence to demonstrate its intent and capability of providing and advertising the services required in 47 CFR section 54.101(a) for the purpose of establishing eligibility for federal universal service funds.
- Whether designation of ACC as an ETC for the receipt of federal universal service funds, in areas served by rural telephone companies, is in the public interest, including whether ACC has demonstrated that its proposed offering is affordable and of sufficient quality.
- Whether redefinition of certain of the rural ILECs' service territories to conform to ACC's licensed service area is appropriate and in the public interest.

¹² In the Matter of the Federal-State Joint Board on Universal Service, CC Docket No. 96-45, *Report and Order*, March 17, 2005, para. 25.

IV. DISCUSSION OF LAW

A. FEDERAL LAW

47 U.S.C section 254(e) provides that "only an eligible telecommunications carrier designated under 214(e) shall be eligible to receive specific Federal universal support."

47 U.S.C. section 214(e)(1) states:

A common carrier designated as an eligible telecommunications carrier ...shall, throughout the service area for which the designation is received—

- (A) offer the services that are supported by Federal universal service support mechanisms under section 254(e) of this title, either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier) and
- (B) advertise the supported services and the charges there for using media of general distribution.

47 C.F.R. section 54.101(a) outlines the federally supported services:

"The following services or functionalities shall be supported by federal universal service support mechanisms:

- (i) Voice grade access to the public switched network.
- (ii) Local usage.
- (iii) Dual tone multi-frequency signaling or its functional equivalent.
- (iv) Single-party service or its functional equivalent.
- (v) Access to emergency services. "Access to emergency services" includes access to services, such as 911 and enhanced 911, provided by local governments or other public safety organizations.
- (vi) Access to operator services.
- (vii) Access to interexchange service.
- (viii) Access to directory assistance.
- (ix) Toll limitation for qualifying low-income consumers.

47 U.S.C. section 254(b) outlines the universal service principles on which policies should be based on the "preservation and advancement of universal service."

Service quality and rates

Quality services should be available at just, reasonable, and affordable rates.

Access to advanced services

Access to advanced telecommunications and information services should be provided in all regions of the Nation.

Access in rural and high cost areas

Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.

B. STATE LAW

Minnesota Stat. section 237.011 outlines the state goals that must be considered as the commission executes its regulatory duties with respect to telecommunication services:

1. Supporting universal service;
2. Maintaining just and reasonable rates;
3. Encouraging economically efficient deployment of infrastructure for higher speed telecommunication services and greater capacity for voice, video, and data transmission;
4. Encouraging fair and reasonable competition for local exchange telephone service in a competitively neutral regulatory manner;
5. Maintaining or improving quality of service;
6. Promoting customer choice;
7. Ensuring consumer protections are maintained in the transition to a competitive market for local telecommunications service; and
8. Encouraging voluntary resolution of issues between and among competing providers and discouraging litigation.

Minnesota Rule 7811.1400, Subpart 2, states as follows:

Designation of CLECs upon petition. Upon request and consistent with the public interest, convenience, and necessity, the commission may designate a competitive local exchange carrier (CLEC) as an ETC and eligible to receive universal support from the federal universal support mechanisms under section 254 of the federal act and any state universal service fund established under Minnesota Statutes, section 237.16, subdivision 9, if the CLEC qualifies as an ETC under 7812.0100, subpart 15. Before designating an additional eligible telecommunications carrier, the commission shall find that the designation is in the public interest.

Minnesota Statute 237.435 dictates that all ETCs be held to the same standards and criteria:

Annual universal service funding certification.

In determining whether to provide the annual certification of any eligible telecommunications carrier for continued receipt of federal universal service funding, the commission shall apply the same standards and criteria to all eligible telecommunications carriers.

C. STATEMENT OF COMMISSION JURISDICTION

Responsibility for designating eligible telecommunications carriers rests with the state commissions, except in cases in which they lack jurisdiction over the applicant.¹³ State commissions must apply the criteria of the Telecommunications Act of 1996, the criteria set by the FCC, and any applicable state criteria.

In recent cases involving petitions for ETC status in Minnesota, the Commission has required carriers to file sufficient information prior to the start of the 180 day review period, such that the Commission may determine not only the carrier's intent and capability of providing the nine supported services throughout its proposed service area, but information which allows the Commission to fulfill its obligation to critically evaluate such public interest issues as affordability of rates, service quality, and reliability of service.

¹³ 47 U.S.C. section 214(e)(6).

V. ANALYSIS

ACC is a Commercial Mobile Radio Service (CMRS) carrier, providing mobile service as defined in 47 U.S.C. § 153 (27).¹⁴ ACC is licensed by the Federal Communications Commission (FCC) to provide CMRS in the following areas: MN RSA 2, MN RSA 3, MN RSA 4, MN RSA 5, MN RSA 6, and the Duluth MSA. The area includes the following Minnesota Counties (or portions thereof): Aitkin, Becker, Beltrami, Big Stone, Carlton, Cass, Cook, Crow Wing, Douglas, Grant, Hubbard, Isanti, Itasca, Kanabec, Koochiching, Lake, Mille Lacs, Morrison, Otter Tail, Pine, Pope, St. Louis, Stevens, Swift, Todd, Traverse, Wadena, and Wilkin in central and northeastern Minnesota. ACC's proposed service area includes territory currently served by Qwest Corporation (Qwest), a non-rural incumbent local exchange carrier (ILEC), and the thirty-
~~six~~ rural¹⁵ ILECs listed in Attachment A.

eight

¹⁴ 47 U.S.C. § 153 (27) defines "mobile service" as "a radio communication service carried on between mobile stations or receivers and land stations, and by mobile stations communicating among themselves, and includes (A) both one-way and two-way radio communication services, (B) a mobile service which provides a regularly interacting group of base, mobile, portable, and associated control and relay stations (whether licensed on an individual, cooperative, or multiple basis) for private one-way or two-way land mobile radio communications by eligible users over designated areas of operation, and (C) any service for which a license is required in a personal communications service established pursuant to the proceeding entitled "Amendment to the Commission's Rules to Establish New Personal Communications Services" (GEN Docket No. 90-314; ET Docket No. 92-100), or any successor proceeding."

¹⁵ A rural telephone company is defined at 47 U.S.C. § 147(37) as: "a local exchange carrier operating entity to the extent that such entity –

(A) provides common carrier service to any local exchange carrier study area that does not include either –

(i) any incorporated place of 10,000 inhabitants or more, or any part thereof, based on the most recently available population statistics of the Bureau of the Census; or

(ii) any territory, incorporated or unincorporated, included in an urbanized area, as defined by the Bureau of the Census as of August 10, 1993;

(B) provides telephone exchange service, including exchange access, to fewer than 50,000 access lines;

(C) provides telephone exchange service to any local exchange carrier study area with fewer than 100,000 access lines; or

(D) has less than 15 percent of its access lines in communities of more than 50,000 on February 8, 1996.

A. ACC'S FACILITIES

Although ACC indicates that the "mobile switching centers used to provide service in its requested service are located in Baxter, Minnesota, Caro, Michigan, and Duluth, Minnesota," it has provided no information concerning the number or locations of the existing cell sites it will use to provide the nine supported services. The Department recommends that prior to further consideration of ACC's petition, the Commission require, as it has required of other ETC designates, that ACC provide a list of the cell sites currently used to provide the supported services in its requested service area, and the specific location (latitude and longitude) of each.

B. ACC'S INTENT AND CAPABILITY OF PROVIDING SERVICE, UPON CUSTOMER REQUEST, THROUGHOUT ITS PROPOSED SERVICE AREA

ACC states in its application that it is a common carrier as defined in 47 U.S.C. § 153(10) and that it is capable of providing all of the nine supported services throughout the service area for which ACC is seeking ETC designation utilizing a combination of its owned and leased facilities.¹⁶

ACC has provided maps showing its current signal service coverage. The Department notes that ACC currently appears to provide coverage throughout most, *but not all*, of its requested ETC-designated area.

ACC lists the steps it will take to provide service to a requesting customer in cases in which the requestor resides within ACC's proposed ETC service area, but outside the Company's existing signal coverage. ACC will:

- a) Determine whether the customer's equipment can be modified or replaced to provide acceptable service;
- b) Determine whether a roof-mounted antenna or other network equipment can be deployed at the customer's premises to provide service;
- c) Determine whether a cell-extender or repeater can be employed to provide service;
- d) Determine whether there are any other adjustments to network or customer facilities that can be made to provide service;
- e) Explore the possibility of offering the resold services of carriers with facilities available to that location; and/or
- f) Determine whether an additional cell site can be constructed to provide service, and evaluate the costs and benefits of using scarce high-cost support to serve the number of customers requesting service.
- g) Finally, if ACC determines that there is no possibility of providing service without constructing a new cell site, it will report to the Commission the proposed cost of construction, the Company's position on whether the request for service is reasonable, and whether scarce high-cost funds should be expended on the request."

¹⁶ ACC petition page 6-9, page 10.

In addition to considering the viability and cost effectiveness of the above potential solutions, the Department believes that ACC should be required to make *specific commitments to serve* requesting customers within its proposed service area, and should be required to disclose any cost to the customer, if any, associated with each option. For example, Cellular Mobile Systems of St. Cloud (CMS) incorporated into its informational tariff the following commitment:

CMS will provide BUS service using mobile handsets. Where coverage is inadequate using mobile handsets, CMS will offer a fixed wireless unit (at an additional charge¹⁷) that provides enhanced calling capabilities and permits customers to attach ordinary telephone equipment to existing telephone wires within their premises. CMS will provide external antennas ("Yagi" antennas), if necessary, at no additional charge. CMS will also undertake additional efforts to optimize its network facilities serving the customers' premise, if necessary, at no additional charge [to the customer]. If these options are not sufficient to provide the customer with adequate service at the time the request is made, CMS will, within 30 days, evaluate the obstacles to providing the requested phone service to that customer, and provide the customer with available options for the provision of such service, and the estimated time frame for implementing such options.¹⁸

The Department notes that the Universal Service Administrative Company (USAC), in its most recent (3rd quarter 2005) filing¹⁹ with the FCC regarding the projected size of the universal service fund, has projected that, if designated, ACC may be eligible to receive \$1,532,076 in quarterly support for its *existing* lines in Minnesota. Despite the significant support that ACC is likely to receive once designated as an ETC, ACC has provided no information as to its plans, if any, to extend its network to serve customers currently outside its signal coverage area. In fact, although its signal coverage maps appear to indicate many areas within its requested service area in which ACC's signal is inadequate or non-existent, ACC states, without further explanation, that it "will not need to construct or obtain any additional network elements to provide service in response to a reasonable request for service in the Service Areas."

¹⁷ The Department notes that CMS' informational tariff indicates that the fixed wireless unit to which CMS refers is available to customers on a leased basis, at a rate of \$10.00 monthly.

¹⁸ CMS Tariff Section 7 a.

¹⁹ Sixty days prior to the start of each quarter, USAC is required to submit a projection of high cost and low income funding requirements for the ensuing quarter to the FCC. USAC publishes the information on its website (<http://www.universalservice.org>) as the FCC filing is made.

The Department has issued requests for further information regarding ACC's intent to fulfill its federal obligation to serve. ACC has not yet made a credible showing, supported by facts and commitments, of the Company's intent and capability of providing service throughout its proposed service area.

C. ACC'S UNIVERSAL SERVICE OFFERING(S)

ACC states that it is able to provide the following services throughout its proposed service area:

- Voice grade access to the public switched network
- Local usage
- Dual tone multi-frequency signaling
- Single party service
- Access to emergency services
- Access to operator services
- Access to directory assistance
- Toll limitation for qualifying low-income consumers

ACC lists among its "Minnesota Service Plans Eligible for Universal Service Funding" a basic universal service package which it will offer to its subscribers, which incorporates the nine supported services listed above, including unlimited local usage. ACC offers a pricing plan for Commission consideration (see "*Affordability*" below).

D. ADVERTISING PLAN

ACC states in its petition that it will advertise the availability of each of the nine supported services throughout its proposed service area through print media of general distribution. In addition, ACC states that it will "advertise on the Company's website." It is not clear to the Department what services or offerings ACC will advertise on its website. ACC did not include a list of publications in which advertisements would be placed, nor did it provide information as to the frequency and scheduling of such advertising. The Department recommends that ACC be required to provide sample print and website advertisements specifically advertising its universal service offering(s) and the availability of Lifeline and Linkup for qualifying customers. ACC has not yet provided information regarding the frequency and scheduling of its BUS/Lifeline/Linkup advertising. The Department believes that once ACC meets other requirements for ETC designation noted herein, the additional detail may be provided as a post-designation compliance matter.

E. PUBLIC INTEREST

The FCC rules require that a state commission designate additional qualifying ETCs for areas served by a rural telephone company *only if the state commission finds that the designation of more than one carrier is in the public interest.* (emphasis added)

The FCC does not define the "public interest" factors that the state Commission may or should consider when designating an additional ETC in a rural service area, but has left the public interest determination and the relevant factors which constitute public interest to the discretion of the states themselves.

In addition to the level of demonstrated intent by the petitioner to invest in network infrastructure in Minnesota and the general public interest benefits of competition, the Commission has chosen, in previous dockets designating ETCs in Minnesota, to consider affordability and service quality as part of its public interest analysis.

F. AFFORDABILITY

ACC has priced its Basic Universal Service (BUS) Offering at a flat monthly rate of \$20.29 per month with unlimited local usage, which fits within the range of basic residential rates charged by the incumbent local exchange carriers within whose service areas ACC proposes to serve. In its advertising plan,²⁰ ACC describes an "activation charge" associated with the BUS offering of \$45.00. ACC also discloses a "Customer Premises Equipment" fee of \$5.00 per month. It is unclear to the Department to what "Customer Premises Equipment" ACC refers, since it has not described in its filing the type of equipment necessary for a customer to subscribe to and gain access to ACC's cellular network via the proposed BUS offering nor has it described its basic universal service offering in any significant detail. In addition, ACC has not disclosed the costs to customers associated with the steps it has agreed to take in order to provide quality service in those areas in which it does not currently have adequate signal coverage. Although the Department finds the proposed monthly rate of \$20.29 for the BUS offering (\$25.29 including "Customer Premise Equipment") and the connection charge of \$45.00 reasonable,²¹ it recommends that the Commission require that, prior to designation, ACC be required to disclose *all* costs associated with its basic universal service offering which must be borne by customers, including all flat fees, installation and equipment charges, and deposits in a tariff or customer service agreement submitted to and kept on file with the Commission and the Department of Commerce.

G. SERVICE QUALITY

ACC claims that it is capable of and willing to provide quality service to its customers. ACC has not provided a proposed tariff or customer service agreement, and with regard to service quality, states only that it "has adopted and is committed to compliance with the Cellular Telephone I A

²⁰ ACC Petition, Attachment 5.

²¹ In its Order Accepting Compliance Filing, Requiring Further Filing, and Transferring Authority to Transfer Authority to Successor Corporation issued April 19, 2000, *In the Matter of the Petition of WWC Holding Company, Inc. f/k/a/ Minnesota Cellular Corporation for Designation as an Eligible Telecommunications Carrier*, the Commission found (at page 5) that "the proposed \$14.99 rate meets the affordability requirement of the federal act, mainly because it fits comfortably within the range of rates charged by the incumbent carriers. Incumbent carriers' rates are reasonable both by definition and by empirical standards."

(CTIA) Code²² in the areas where it is seeking designation as a competitive ETC. ACC has not yet submitted an information tariff or service agreement which outlines the terms and conditions of its universal service offerings, including service quality commitments, for Commission evaluation.

H. ACC'S PROPOSED REDEFINITION OF RURAL LEC SERVICE AREAS

Section 214(e) of the Act requires a designated ETC to offer the required services throughout the service area for which the designation is received. Section 214(e)(5) defines the term "service area" as a "geographic area established by a state commission for the purpose of determining universal service obligations and support mechanisms." Pursuant to Minnesota Rules, 7812.0100, subpt. 51, the term "universal service area" is defined as follows:

- A. with respect to a rural telephone company, the local exchange carrier's study area or any other area designated jointly by the commission and the FCC pursuant to Code of Federal Regulations, title 47, section 54.203, paragraphs (c) and (d); or
- B. the exchange area, or a different geographic unit identified by the commission under part 7812.1400 subpart 3, of a local exchange carrier unless the commission has found the local exchange carrier to be a rural telephone company.

Minn. Rule 7812.1400 subpart 3 states:

A decision on a petition for designation to receive universal service support under this part must include a determination of the applicable universal service area. The commission shall determine whether the LEC serving the area for which the CLEC seeks designation to receive universal service support is a rural telephone company if the competitive local exchange carrier's petition or another party's initial comments under subpart 8 assert that the LEC is a rural telephone company. If the applicable LEC has 50,000 or more subscribers and is not found by the commission to be a rural telephone company, the commission shall designate the local exchange carrier's exchange area as the universal service area unless the commission finds that a smaller geographic unit would be more appropriate, based on consideration of the relevant high-cost areas designated by the FCC and the public interest.

²² Attached as Attachment B.

Redefinition of the service area of a rural telephone company requires the state Commission's approval. Once approved by the state, a petition must be submitted to the FCC, detailing the proposed service area definition and the State Commission's ruling or official statement outlining the reasons for the proposed definition.

ACC proposes to serve 52 wire centers in the service area of Qwest, a non-rural carrier. Thirty-six of the rural telephone companies in whose study areas ACC proposes to serve will require no further redefinition – either because ACC proposes to serve the entire study area, or because the study areas have already been redefined in previous dockets at the exchange or wire center level. ACC proposes to serve only certain exchanges in the rural study areas of Paul Bunyan Telephone Cooperative, and Red River Rural Telephone Association (nor have they been previously redefined), and therefore proposes that the Commission approve redefinition at the wire center level to conform to its licensed service area.

In its 1996 Recommended Decision, which laid the foundation for the FCC's First Report and Order, the Federal-State Joint Board on Universal Service identified three factors to be considered when redefining a service area.²³

First, the Joint Board advised state commissions to consider whether the competitive carrier is attempting to "cream-skim" by proposing to serve only the lowest cost customers. Secondly, the Commission should consider the regulatory status given to rural local exchange carriers under the Telecommunications Act. Finally, the Joint Board directed the states to consider the administrative burden a LEC would face by calculating its costs on a basis other than its entire study area.

On February 26, 2004, in its recently released Recommended Decision, the Joint Board "continue[d] to endorse the procedures established by the Federal Communications Commission in 1997 for redefinition of rural service areas."²⁴

The Joint Board acknowledged that:

The provisions contained in the *Rural Task Force Order*²⁵ for disaggregation and targeting of universal service support may help alleviate some concerns regarding cream-skimming. Permitting rural carriers to disaggregate and target universal service support allows them to direct universal service support to those zones within the study area where support is most needed. Targeting

²³ Federal-State Joint Board on Universal Service, Recommended Decision, CC Docket No. 96-45, 12 FCC Rcd 87, paras 172-174, (1996).

²⁴ Federal-State Joint Board on Universal Service, Recommended Decision, CC Docket No. 96-45, FCC 04J-1, para.55, February 27, 2004.

²⁵ In the Matter of Federal-State Joint Board on Universal Service, *Fourteenth Report and Order*, CC Docket No. 96-45, FCC 01-157, May 23, 2001.

support in this manner also promotes a better matching of per-line support to the rural carriers' costs of providing service, and helps reduce the economic distortions that could lead to cream-skimming. In a study area with disaggregated support, a competitive ETC designated for a service area smaller than the study area will be limited to receiving only the per-line support established for that area.²⁶

The Joint Board "hesitated", however, to state that disaggregation of support "addresses all concerns," noting that "[f]or instance, the [Federal Communications] Commission has recognized that cream-skimming may still be a concern where a competitor proposes to serve only the low-cost areas of a rural carrier's study area to the exclusion of high-cost areas. (See e.g., RCC Holdings Order, 17 FCC Rcd at 23546, para. 35; Virginia Cellular ETC Order, FCC 03-338 at paras. 32-33.)"²⁷

In the Virginia Cellular ETC Order to which the Joint Board refers above, the FCC recognized that, in addition to deliberate cream-skimming, which occurs when "competitors seek to serve only the low-cost high-revenue customers in a rural telephone company's study area," there may exist situations in which "for reasons beyond a competitive carrier's control, the lowest cost portion of a rural study area may be the only portion of the study area that a wireless carriers' license covers. Under these circumstances, granting a rural carrier ETC designation for only its licensed portion of the rural study area may have the same *effect* on the ILEC as rural cream-skimming."²⁸

ACC has based its requested ETC area on its licensed service area and does not appear to be deliberately "cream-skimming."

ACC does not appear to be proposing to serve only the low-cost areas of any carrier's study area to the exclusion of the high-cost areas, nor is ACC proposing to serve only the exchanges within any rural carrier's study area to which a carrier may have targeted a disproportionately high amount of support.

In the Matter of Virginia Cellular, LLC's Petition for Designation as an Eligible Telecommunications Carrier In the Commonwealth of Virginia (the Virginia Cellular Case), the FCC analyzed the population densities of the affected wire centers in order to ensure that designating Virginia Cellular as an ETC for only its licensed portion of the incumbent rural carriers' study areas would not result in the *unintended effect* of cream-skimming. The FCC

²⁶ Federal-State Joint Board on Universal Service, Recommended Decision, CC Docket No. 96-45, FCC 04J-1, para.54, February 27, 2004.

²⁷ Id.

²⁸ In the Matter of Virginia Cellular LLC Petition for Designation as Eligible Telecommunications Carrier in the Commonwealth of Virginia, Memorandum Opinion and Order, CC Docket No. 96-45, FCC 03-338, January 22, 2004, para. 32-33.

reasoned that "although there are other factors that define high-cost areas, a low population density typically indicates a high-cost area."²⁹ ACC has conducted a similar analysis in the areas in which ACC requests study area redefinition. The Department finds no evidence that the population densities of the portions of each exchange in which ACC proposes to serve as an ETC, are significantly higher (and hence presumably lower-cost) or significantly different from, those portions of each exchange which ACC proposes to exclude from its service area.³⁰

I. ACC'S REQUEST FOR WAIVER OF MINNESOTA RULE 7811.1400, SUBPART 2

ACC requests in its petition that the Commission waive the requirements of its rules requiring that an ETC be certified as a "competitive local exchange carrier" (CLEC) or a "telephone company" pursuant to Minnesota Rule 7829.3200. The Department agrees with ACC that although Minnesota Rule 7811.1400, subpart 2, requires that a party seeking an ETC designation be a competitive LEC, Section 332(c)(3) of the Telecommunications Act of 1986 preempts State entry (as well as rate) regulation of CMRS carriers. The Department recommends that the Commission waive its requirement under Minnesota Rule 7811.1400, subpart 2 that ACC be certified as a competitive LEC to qualify for ETC status as it has done for other wireless applicants for ETC status in Minnesota.

J. CERTIFICATION OF ELIGIBILITY FOR HIGH COST LOOP SUPPORT

ACC has submitted to the Commission an affidavit from a corporate officer certifying that all high-cost support provided to ACC will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended, pursuant to Section 254(e) of the Telecommunications Act, and asks that the Commission find that it has met the certification requirement and is therefore eligible to receive high-cost support as of the date that ETC approval is granted

²⁹ *In the Matter of Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier In the Commonwealth of Virginia*, Memorandum Opinion and Order in CC Docket No. (6-45, FCC-03-338, released January 22, 2004, paras 32-35.

³⁰ In the Virginia Cellular Case, the FCC concluded that it would not be in the public interest to designate Virginia Cellular as an ETC in the study area of a rural carrier in which Virginia Cellular proposed, based on its licensed service area, to serve only one wire center. The FCC determined that the population density in the affected wire center was approximately 273 persons per square mile, while the average population density of the remaining wire centers in the underlying study area was determined to be approximately 33 persons per square mile. The FCC found that designating Virginia Cellular as an ETC only in one wire center with a population density far higher than the that of the remainder of the underlying study area, could 'significantly undermine the [rural carrier's] ability to serve its entire study area.' *Id.* para. 35.

VI. COMMISSION ALTERNATIVES

1. With regard to ACC's Intent and Capability
 - A. Find that ACC has described its universal service offering(s) in enough detail and with sufficient evidence to demonstrate its intent and capability of providing and advertising the services required in 47 CFR section 54.101(a) for the purpose of establishing eligibility for federal universal service funds and proceed to consider whether designation of ACC as an ETC is in the public interest, including whether ACC has demonstrated that its proposed offering is affordable and of sufficient quality.
 - B. Find that ACC has not described its universal service offering(s) in enough detail and with sufficient evidence to demonstrate its intent and capability of providing and advertising the services required in 47 CFR section 54.101(a) for the purpose of establishing eligibility for federal universal service funds. Deny the petition.
 - C. Find that ACC has not yet described its universal service offering(s) in enough detail and with sufficient evidence to demonstrate its intent and capability of providing and advertising the services required in 47 CFR section 54.101(a) for the purpose of establishing eligibility for federal universal service funds. Require ACC to file supplemental information prior to further consideration of its petition. Start the 180 day time frame upon ACC's submission of a supplemental filing. Consider public interest aspects and the redefinition of service areas once a supplemental filing is made.
2. With Regard to Public Interest, including Affordability and Service Quality:
 - A. Find that designation of ACC as an ETC is in the public interest.
 - B. Find that designation of ACC as an ETC is not in the public interest.
3. With Regard to the Redefinition of Some Rural Carriers' Service Areas:
 - A. Find that redefinition is appropriate and in the public interest.
 - B. Find that redefinition is not appropriate and/or not in the public interest.

VII. RECOMMENDATION

The Department recommends alternative 1(C).

The Department recommends that the Commission find that ACC has not yet made a credible showing, supported by facts and commitments, of its capability and intent to provide and advertise an affordable, quality offering, including the nine federally supported services, throughout its proposed service area.

The Department recommends that prior to further consideration of ACC's petition, the Commission require that ACC submit a supplemental filing including the following:

- A list of cell sites used to provide service in the service area in which ACC seeks ETC certification, and their locations.
- Supplemental information regarding ACC's current cellular coverage within its proposed service area, and detailed information as to how, upon a reasonable request from a customer, it *will provide* service in the areas in which it does not currently have adequate coverage.
- An advertising plan specific to the BUS and the availability of Lifeline and Linkup.
- An informational tariff or customer service agreement that lists the following:
 - (a) All rates associated with the universal service offering, including the cost of all equipment and installation charges and all other recurring and non-recurring charges.
 - (b) All terms and conditions of service associated with its universal service offering.

In addition, the Department recommends that the Commission require, in a competitively neutral manner, pursuant to Minnesota Statute §237.435, that ACC submit for Commission and Department of Commerce review, information analogous to that which the Commission deemed appropriate, in Docket P999/M-05-741, to require of Minnesota ETCs in future annual certifications (i.e., the following):

1. A two-year service quality improvement plan, including maps, detailing, at the service area level, ACC's specific targets, its plans for meeting those targets, and associated projected costs.
2. A commitment to track, and to provide each year, at the time of annual certification, detailed information on any outage lasting at least 30 minutes, for any service area in which an ETC is designated for any facilities it owns, operates, leases, or otherwise utilizes that potentially affect at least ten percent of the end users served in a designated service area, or that potentially affect a 911 facility. Specifically, the ETC's annual report must include: 1) the date and time of the onset of the outage; 2) a brief description of the outage and its resolution; 3) the particular services

affected; 4) the geographic areas affected by the outage; 5) steps taken to prevent a similar situation in the future; and 6) the number of customers affected.

3. A commitment to track and report on an annual basis the number of requests for service from potential customers within its service areas that were unfulfilled for the past year. The ETC must also detail how it attempted to provide service to those potential customers, including the cost of construction and the charge assessed or proposed to the potential customer.
4. A commitment to provide, on an annual basis, certification, in the form of an affidavit signed by a corporate officer, that the ETC is complying with applicable service quality standards and/or service quality and consumer protection commitments made by the ETC at the time of initial certification.
5. A credible demonstration that the ETC is able to function in emergency situations, i.e., has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations.³¹
6. A commitment to provide, on an annual basis, certification, in the form of an affidavit signed by a corporate officer that the ETC is offering a local usage plan (i.e., a "basic universal service plan") comparable to the incumbent LEC in the relevant service areas; and a report of the number of customers subscribed to such plan.
7. Certification, in the form of an affidavit signed by a corporate officer, that the carrier acknowledges that the FCC may require it to provide equal access to long distance carriers in the event that no other eligible telecommunications carrier is providing equal access within the service area.

/sm

³¹ In the Matter of the Federal-State Joint Board on Universal Service, CC Docket No. 96-45, *Report and Order*, March 17, 2005, para. 25.

Rural ILECs Within Whose Territory ACC Proposes to Serve

- 1 Arrowhead Communications Corporation
- 2 Arvig Telephone Company
- 3 Benton Cooperative Telephone Company
- 4 Blackduck Telephone Company
- 5 Callaway Telephone Company
- 6 CenturyTel of Minnesota, Inc.
- 7 CenturyTel of Northwest Wisconsin, Inc.
- 8 Citizens Telecommunications Company of Minnesota
- 9 Consolidated Telephone Company
- 10 Crosslake Communications
- 11 Eagle Valley Telephone Company
- 12 East Otter Tail Telephone Company
- 13 Emily Cooperative Telephone Company
- 14 Federated Telephone Cooperative
- 15 Federated Utilities, Inc.
- 16 Gardonville Cooperative Telephone Association
- 17 Johnson Telephone Company
- 18 Loretel Systems, Inc.
- 19 Lowry Telephone Company
- 20 Melrose Telephone Company
- 21 Mid-State Telephone Company
- 22 Midwest Telephone Company
- 23 Northern Telephone Company
- 24 Osakis Telephone Company
- 25 Park Region Mutual Telephone Company
- 26 Paul Bunyan Rural Telephone Company
- 27 Peoples Telephone Company
- 28 Red River Rural Telephone Company
- 29 Rothsay Telephone Company
- 30 Runestone Telephone Association
- 31 Sprint Minnesota, Inc.
- 32 Starbuck Telephone Company
- 33 Twin Valley-Ulen Telephone Company
- 34 Upsala Cooperative Telephone Association
- 35 Valley Telephone Company
- 36 West Central Telephone Company
- 37 Wilderness Valley Telephone Company, Inc.
- 38 Wolverton Telephone Company

CTIA Consumer Code for Wireless Services

To provide consumers with information to help them make informed choices when selecting wireless service, to help ensure that consumers understand their wireless service and rate plans, and to continue to provide wireless service that meets consumers' needs, the CTIA and the wireless carriers that are signatories, including Centennial Wireless, have developed the following Consumer Code. The carriers that are signatories to this Code have voluntarily adopted the principles, disclosures, and practices here for wireless service provided to individual consumers.

The wireless carriers that are signatories to this Code will:

1. **Disclose rates and terms of service to consumers.**

For each rate plan offered to new consumers, wireless carriers will make available to consumers in collateral or other disclosures at point of sale and on their web sites, at least the following information, as applicable: (a) the calling area for the plan; (b) the monthly access fee or base charge; (c) the number of airtime minutes included in the plan; (d) any nights and weekend minutes included in the plan or other differing charges for different time periods and the time periods when nights and weekend minutes or other charges apply; (e) the charges for excess or additional minutes; (f) per-minute long distance charges or whether long distance is included in other rates; (g) per-minute roaming or off-network charges; (h) whether any additional taxes, fees or surcharges apply; (i) the amount or range of any such fees or surcharges that are collected and retained by the carrier; (j) whether a fixed-term contract is required and its duration; (k) any activation or initiation fee; and (l) any early termination fee that applies and the trial period during which no early termination fee will apply.

2. **Make available maps showing where service is generally available.**

Wireless carriers will make available at point of sale and on their web sites maps depicting approximate voice service coverage applicable to each of their rate plans currently offered to consumers. To enable consumers to make comparisons among carriers, these maps will be generated using generally accepted methodologies and standards to depict the carrier's outdoor coverage. All such maps will contain an appropriate legend concerning limitations and/or variations in wireless coverage and map usage, including any geographic limitations on the availability of any services included in the rate plan. Wireless carriers will periodically update such maps as necessary to keep them reasonably current. If necessary to show the extent of service coverage available to customers from carriers' roaming partners, carriers will request and incorporate coverage maps from roaming partners that are generated using similar industry-accepted criteria, or if such information is not available, incorporate publicly available information regarding roaming partners' coverage areas.

3. **Provide contract terms to customers and confirm changes in service.**

When a customer initiates service with a wireless carrier or agrees to a change in service whereby the customer is bound to a contract extension, the carrier will provide or confirm the material terms and conditions of service with the subscriber.

4. **Allow a trial period for new service.**

When a customer initiates service with a wireless carrier, the customer will be informed of and given a period of not less than 14 days to try out the service. The carrier will not impose an early termination fee if the customer cancels service within this period, provided that the customer complies with applicable return and/or exchange policies. Other charges, including airtime usage, may still apply.

5. **Provide specific disclosures in advertising.**

In advertising of prices for wireless service or devices, wireless carriers will disclose material charges and conditions related to the advertised prices, including if applicable and to the extent the advertising medium reasonably allows: (a) activation or initiation fees; (b) monthly access fees or base charges; (c) any required contract term; (d) early termination fees; (e) the terms and conditions related to receiving a product or service for "free;" (f) the times of any peak and off-peak calling periods; (g) whether different or additional charges apply for calls outside of the carrier's network or outside of designated calling areas; (h) for any rate plan advertised as "nationwide," (or using similar terms), the carrier will have available substantiation for this claim; (i) whether prices or benefits apply only for a limited time or promotional period and, if

so, any different fees or charges to be paid for the remainder of the contract term; (ij) whether any additional taxes, fees or surcharges apply; and (j) the amount or range of any such fees or surcharges collected and retained by the carrier.

6. **Separately identify carrier charges from taxes on billing statements.**

On customers' bills, carriers will distinguish (a) monthly charges for service and features, and other charges collected and retained by the carrier, from (b) taxes, fees and other charges collected by the carrier and remitted to federal state or local governments. Carriers will not label cost recovery fees or charges as taxes.

7. **Provide customers the right to terminate service for changes to contract terms.**

Carriers will not modify the material terms of their subscribers' contracts in a manner that is materially adverse to subscribers without providing a reasonable advance notice of a proposed modification and allowing subscribers a time period of not less than 14 days to cancel their contracts with no early termination fee.

8. **Provide ready access to customer service.**

Customers will be provided a toll-free telephone number to access a carrier's customer service during normal business hours. Customer service contact information will be provided to customers online and on billing statements. Each wireless carrier will provide information about how customers can contact the carrier in writing, by toll-free telephone number, via the Internet or otherwise with any inquiries or complaints, and this information will be included, at a minimum, on all billing statements, in written responses to customer inquiries and on carriers' web sites. Each carrier will also make such contact information available, upon request, to any customer calling the carrier's customer service departments.

9. **Promptly respond to consumer inquiries and complaints received from government agencies.**

Wireless carriers will respond in writing to state or federal administrative agencies within 30 days of receiving written consumer complaints from any such agency.

10. **Abide by policies for protection of customer privacy.**

Each wireless carrier will abide by a policy regarding the privacy of customer information in accordance with applicable federal and state laws, and will make available to the public its privacy policy concerning information collected online.

STATE OF MINNESOTA)
COUNTY OF RAMSEY) ss
)

AFFIDAVIT OF SERVICE

I, **Jan Mottaz**, on the **4th** day of **August, 2005**, served the attached
Minnesota Department of Commerce – Comments

Docket Number(s): **PT6458/M-05-1122**

- X by depositing in the United States Mail at the City of St. Paul, a true and correct copy thereof, properly enveloped with postage prepaid.
- X by personal service
 - by express mail
 - by delivery service

to all persons at the addresses indicated below &/or on the attached list:

Jan Mott

PT6458/M-05-1122

Callaway Telephone Co Inc
160 2nd Ave SW
Perham, MN 56573

Federated Utilities Inc
405 2nd Ave E
PO Box 156
Chokio, MN 56221-0156

Burl W Haar Exec Sec
MN Public Utilities Commission
350 Metro Square Bldg
121 7th Place E
St Paul MN 55101

Consolidated Telephone Co
1102 Madison St
Brainerd, MN 56401-0972

Johnson Telephone Co
201 1st Ave NE
PO Box 39
Remer, MN 56672-0039

Linda Chavez (4)
MN Dept of Commerce
85 7th Place E Ste 500
St Paul MN 55101-2198

Richard Johnson
Moss & Barnett PA
4800 Norwest Center
90 S 7th St
Minneapolis, MN 55402

Lowry Telephone Co
123 Memorial Dr
PO Box 336
Hoffman, MN 56339

Julia Anderson
Attorney General's Office
1400 Bremer Tower
445 Minnesota St
St Paul MN 55101-2131

Arvig Telephone Co
525 Junction Rd
Madison, WI 53717

Mid-State Telephone Co
525 Junction Rd
Madison, WI 53717

Curt Nelson
Attorney General's Office-RUD
900 Bremer Tower
445 Minnesota Street
St Paul MN 55101

Blackduck Telephone Co
PO Box 325
Blackduck, MN 56630-0325

Northern Telephone Co
1396 County Rd 25
Wawina, MN 55736

Mark J. Ayotte
Briggs & Morgan
2200 IDS Center
80 S 8th St
Minneapolis, MN 55402

CenturyTel of MN Inc
333 N Front St
LaCrosse, WI 56502-4800

Park Region Mutual Telephone Co
100 Main St
PO Box 277
Underwood, MN 56386-0277

Thomas A. Coates
VP, Corporate Development
American Cellular Corp
14201 Wireless Way
Oklahoma City, OK 73134-2512

Crosslake Communications
Telephone Fund
PO Box 70
Crosslake, MN 56442-0070

Peoples Telephone Co of Bigfork
PO Box 45
Parkers Prairie, MN 56361-0045

Arrowhead Communications Corp
PO Box 428
Hector, MN 55342-0428

Eagle Valley Telephone Co
PO Box 428
Hector, MN 55342-0428

East Ottertail Telephone Co
160 2nd Ave SW
Perham, MN 56573

Benton Cooperative Telephone Co
2220 125th St NW
Rice, MN 56367

Emily Cooperative Telephone Co
PO Box 100
Emily, MN 56447-0100

Federal Telephone Cooperative
405 2nd Ave E
PO Box 156
Chokio, MN 56221-0156

Gardonville Coop Telephone Assn
PO Box 187
Brandon, MN 56315-0187

Loretel Systems Inc
PO Box 428
Hector, MN 55342-0428

Melrose Telephone Co
PO Box 100
Melrose, MN 56352-0100

Midwest Telephone Co
PO Box 45
Parkers Prairie, MN 56361-0045

Osakis Telephone Co
PO Box 45
Parkers Prairie, MN 56361-0045

Paul Bunyan Rural Telephone Co
1831 Anne St NW
Bemidji, MN 56601

Red River Telephone Assn
506 Broadway
PO Box 136
Abercrombie, NE 58001

Rothsay Telephone Co
137 1st NW
PO Box 158
Rothsay, MN 56579-0158

Starbuck Telephone Co
227 S Main St
Clara City, MN 56222-0800

Upsala Co-op Telephone Assn
PO Box 366
Upsala, MN 56384-0366

West Central Telephone Assn
PO Box 304
Sebeka, MN 56477-0304

Victor Dobras
Sprint
30 E 7th St, Ste 1630
St. Paul, MN 55101-4901

Jason Topp
Qwest
200 S 5th St, Rm 2200
Minneapolis, MN 55402

Runestone Telephone Assn
PO Box 336
Hoffman, MN 56339-0336

Twin Valley-Ulen Telephone Co
160 2nd Ave SW
Perham, MN 56573

Valley Telephone Co
1000 Main St
PO Box 277
Underwood, MN 56586-0277

Wolverton Telephone Co
PO Box 129
Wolverton, MN 56594-0129

Kevin Saville
Citizens/Frontier Communications
2378 Wilshire Blvd
Mound, MN 55364

Wilderness Valley Telephone Co
7 Little Bear Point Rd
Cook, MN 55723

Exhibit C

December 2, 2005 Comments of the Minnesota Department of Commerce



EXHIBIT C

85 7th Place East, Suite 500
St. Paul, Minnesota 55101-2198
651.296.4026 FAX 651.297.1959 TTY 651.297.3067

December 2, 2005

Burl W. Haar
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, Minnesota 55101-2147

RE: **Comments of the Minnesota Department of Commerce**
Docket No. PT6458/M-05-1122

Dear Dr. Haar:

Attached are the comments of the Department of Commerce in the following matter:

American Cellular Corporation's Petition for designation as an eligible
Telecommunications Carrier (ETC).

The petition was filed on July 1, 2005, and Supplemented on November 7, 2005. The
Petition was filed by:

Mark J. Ayotte
2200 IDS Center
80 South Eighth Street
Minneapolis, MN 55402

The Department recommends **approval** and is available to answer any questions the
Commission may have.

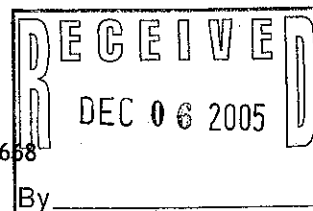
Sincerely,

KATHERINE DOHERTY
Rates Analyst

KD/sm
Attachment

Market Assurance: 1.800.657.3602
Energy Information: 1.800.657.3710
www.commerce.state.mn.us

Licensing: 1.800.657.3978
Unclaimed Property: 1.800.925.5658
An Equal Opportunity Employer





BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

COMMENTS OF THE MINNESOTA DEPARTMENT OF COMMERCE

DOCKET NO. PT6458/M-05-1122

I. BACKGROUND

On July 1, 2005, American Cellular Corporation (ACC) submitted a petition seeking an Order from the Minnesota Public Utilities Commission (Commission) designating it as an eligible telecommunications carrier (ETC) for the purpose of receiving support from the federal universal service fund. In conjunction with its petition for ETC status, ACC requested that the Commission redefine, at the wire center level, certain of the service areas of the rural incumbent local exchange carriers in the territories in which ACC proposes to serve¹.

On July 15, 2005, the Minnesota Independent Coalition (MIC) filed comments challenging the completeness of ACC's filing.

On August 4, the Department of Commerce (the Department) issued comments recommending that the Commission require ACC to file supplemental information prior to further consideration of the Petition.

On August 4, MIC and Citizens Telecommunications of Minnesota (Citizens) also filed comments and petitions to intervene in the matter.

On August 15, ACC filed reply comments, including supplemental information in support of its petition. MIC also filed reply comments.

¹ ACC proposes that the service areas of Paul Bunyan Rural Telephone Cooperative and Red River Rural Telephone Association be redefined at the wire center level.

On October 25, 2005, in the current docket, the Commission issued an *Order Requiring Supplementary Filing and Appointing Lead Commissioner*.² The Commission determined that while ACC had provided supplementary information in response to Department information requests, such information had not yet been made "part of the record of [the] matter and that ACC's filing [was] incomplete at [that] time." The Commission directed ACC to "make a supplementary filing with the Commission, containing information already given to the Department pursuant to a Department information request and any additional informant the Company may deem relevant."³ The Commission specifically clarified, in its Order, its intent to review ACC's petition "based on the Commission's standards existing at the time of ACC's initial filing [on] July 5, 2005."⁴ In addition, the Commission appointed Commissioner Reha as Lead Commissioner for the purpose of issuing a protective order regarding the interveners' access to ACC information. The Commission also noted that since no objections had been filed to Citizens' and MIC's petitions for intervention, they would be considered granted pursuant to Minn. Rule 7829.0800, subpt. 5.⁵

On November 7, 2005, ACC submitted a supplemental filing.

On November 8, 2005, the Commission issued a Notice soliciting comments on the matter by November 28, 2005, and reply comments by December 13, 2005.

On November 23, 2005, at the request of the Department, the Commission extended the deadline for comments to December 5, 2005.

II. STATEMENT OF ISSUES

1. Whether ACC has described its universal service offering(s) in enough detail and with sufficient evidence to demonstrate its intent and capability of providing and advertising the services required in 47 CFR section 54.101(a) for the purpose of establishing eligibility for federal universal service funds.
2. Whether designation of ACC as an ETC for the federal universal service fund, in areas served by rural telephone companies, is in the public interest, including whether ACC has demonstrated that its proposed offering is affordable and of sufficient quality.

² In the Matter of American Cellular Corporation's Petition for Designation as an Eligible Telecommunications Carrier and Redefinition of Rural Telephone Company Service Area Requirement, Docket No. PT6458/M-05-1122, *Order Requiring Supplementary Filing and Appointing Lead Commissioner*, October 25, 2005.

³ Id, page 2.

⁴ Id.

⁵ Id, page 1, fn 1. Minn. Rule 7829.0800, subpart 5 states that "[i]f there is no objection to intervention and a petition to intervene is not denied or suspended within 15 days of filing, the petition to intervene must be considered granted

3. Whether redefinition of certain rural ILECs' service territories at the wire center level is appropriate.

III. DISCUSSION OF LAW

A. STATEMENT OF COMMISSION JURISDICTION

Responsibility for designating eligible telecommunications carriers rests with the state commissions, except in cases in which they lack jurisdiction over the applicant.⁶ State commissions must apply the criteria of the Telecommunications Act of 1996, the criteria set by the FCC, and any applicable state criteria.

The designation process and determination of geographic service areas are different for applicants seeking certification within the service areas of rural and non-rural incumbent carriers. With respect to areas served by non-rural carriers, designation may be at any geographic level and the states are required to designate all qualified applicants.⁷ For areas served by rural companies, designation of ETCs must be at the study area⁸ level, unless the state commission and the FCC agree to a different geographic service area. A state commission may designate additional qualifying ETCs for areas served by a rural telephone company only if the state commission finds that the designation of more than one carrier is in the public interest.

In recent cases involving petitions for ETC status in Minnesota, the Commission has required carriers to file sufficient information prior to the start of the 180 day review period, such that the Commission may determine not only the carrier's intent and capability of providing the nine supported services throughout its proposed service area, but information which allows the Commission to fulfill its obligation to critically evaluate such public interest issues as affordability of rates, service quality, and reliability of service.

⁶ 47 U.S.C. section 214(e) (6).

⁷ 47 U.S.C section 214 (e) (2) states:

A State commission shall upon its own motion or upon request designate a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the State commission. Upon request and consistent with the public interest, convenience, and necessity, the State commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated by the State commission, so long as each additional requesting carrier meets the requirements of paragraph (1). Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the State commission shall find that the designation is in the public interest.

⁸ Minn. Rule 7812.0100, subpart 44b defines study area as "the area designated for a particular local exchange carrier by the FCC." A "study area" is an ILEC's existing service area, and generally includes all of the exchanges in which the company provides service within the state. The study area boundaries were fixed by the FCC as of November 15, 1984. See *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket 96-45, Report and Order, 12 FCC Rcd 8776, 8872 n. 434 (1997.)

B. FEDERAL LAW

47 U.S.C section 254(e) provides that "only an eligible telecommunications carrier designated under 214(e) shall be eligible to receive specific Federal universal support."

47 U.S.C. section 214(e) (1) states:

A common carrier designated as an eligible telecommunications carrier ...shall, throughout the service area for which the designation is received—

(A) offer the services that are supported by Federal universal service support mechanisms under section 254(e) of this title, either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier) and

(B) advertise the supported services and the charges therefor using media of general distribution.

47 C.F.R. section 54.101(a) outlines the federally supported services:

"The following services or functionalities shall be supported by federal universal service support mechanisms:

- (i) Voice grade access to the public switched network.
- (ii) Local usage.
- (iii) Dual tone multi-frequency signaling or its functional equivalent.
- (iv) Single-party service or its functional equivalent.
- (v) Access to emergency services. "Access to emergency services" includes access to services, such as 911 and enhanced 911, provided by local governments or other public safety organizations.
- (vi) Access to operator services.
- (vii) Access to interexchange service.
- (viii) Access to directory assistance.
- (ix) Toll limitation for qualifying low-income consumers.

47 U.S.C. section 254(b) outlines the universal service principles on which policies should be based on the "preservation and advancement of universal service."

Service quality and rates

Quality services should be available at just, reasonable, and affordable rates.

Access to advanced services

Access to advanced telecommunications and information services should be provided in all regions of the Nation.

Access in rural and high cost areas

Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.

C. STATE LAW

Minnesota Stat. section 237.011 outlines the state goals that must be considered as the commission executes its regulatory duties with respect to telecommunication services:

- (1) supporting universal service;
- (2) maintaining just and reasonable rates;
- (3) encouraging economically efficient deployment of infrastructure for higher speed telecommunication services and greater capacity for voice, video, and data transmission;
- (4) encouraging fair and reasonable competition for local exchange telephone service in a competitively neutral regulatory manner;
- (5) maintaining or improving quality of service;
- (6) promoting customer choice;
- (7) ensuring consumer protections are maintained in the transition to a competitive market for local telecommunications service; and
- (8) encouraging voluntary resolution of issues between and among competing providers and discouraging litigation.

IV. ANALYSIS

The Supplemental Filing

• *ACC's Facilities*

In addition to the information provided in its initial petition, ACC has provided a list and description of its current network facilities, including switching facilities, cell sites, and towers, and their specific locations⁹. ACC notes in its supplemental petition that it included specific

⁹ Supplemental Filing, pages 2-3; Trade Secret Exhibit 1.

information regarding its signal coverage within its proposed service area in its initial petition. ACC has fulfilled the requirement to provide information regarding its facilities and its signal coverage.

- *ACC's Intent and Capability of Providing Service, Upon Reasonable Customer Request*

ACC "expressly commits" in its supplemental filing to "provid[e] service to requesting customers within the requested service areas upon reasonable request consistent with the obligations of an ETC."¹⁰ ACC has provided a detailed description of the steps it will take, upon customer request, to provide service in areas within its proposed service area that currently do not have adequate coverage, and the estimated time frame associated with each of the steps. ACC has included the cost to the customer, if any, in its informational tariff.

In addition, ACC has committed to construct and maintain six additional cell sites to extend its network coverage in the areas of Crane Lake, Nett Lake, Babbitt, Silver Bay, Lutsen, and Grand Marais. ACC has included detailed information regarding the locations of the new cell sites, the populations that may be served, projected capital expenditures, and projected annual operating costs. ACC notes the following:

The selection of these proposed facilities construction projects is based on ACC's current judgment of where there is unfulfilled customer demand and where the Company's network may be expanded or extended to meet this need. If consumer demand changes, ACC will adjust its proposed service coverage accordingly... ACC's service improvement plan is subject to modification and amendment based on external factors over which the Company has no control.¹¹

The Department acknowledges that any investment plan must be flexible and subject to modification, and believes that ACC has adequately demonstrated the intent and capability of providing the nine supported services throughout its service area. The Department notes that in future years, as a designated ETC, ACC will be required to file on an annual basis, pursuant to the Commission's Order in Docket No. P999/M-05-741, two year service quality plans and reports on its progress toward the fulfillment of those plans.¹²

¹⁰ Id., page 3.

¹¹ Id., page 7, fn 3.

¹² In the Matter of Possible Changes to the Commission's Annual Certification Requirements Related to Eligible Telecommunications Carriers' Use of the Federal Universal Service Support, Docket No. P999/M-05-741, *Order Setting Filing Requirements [and Opening Proceeding to Consider Adopting FCC Standards for Designating Eligible Telecommunications Carriers.]* July 21, 2005, page 10.

- *Advertising Plan*

ACC has provided additional information regarding its plans to advertise the availability of Lifeline, Linkup, and its universal service offering, including a sample advertisement. The Department believes that further detail regarding the frequency and scheduling of ACC's BUS/Lifeline/Linkup may be provided as a post designation compliance item. ACC has met the requirement to demonstrate the intent and capability of advertising the supported services throughout its proposed service area.

- *ACC's Proposed Tariff and Customer Service Agreement*

Description of BUS

ACC's proposed tariff includes a detailed description of its BUS offering. The BUS offering includes all of the nine supported services required under 47 C.F.R. 54.101(a).

Lifeline and Linkup

ACC's tariff includes informational provisions outlining eligibility and availability of the Federal Link-up and Lifeline programs.

Additional Services Which May be Added to the BUUSO

ACC's tariff includes a list and prices of services which may be added to the BUS for additional charges, which include the following:

- Long distance calling;
- Voice Mail
- Caller ID;
- Call Waiting;
- Call Forwarding;
- Six-Way Conference Calling
- International Dialing Discount

Pricing for BUS

The tariff which ACC has submitted for Commission evaluation includes the monthly rate for the Company's BUS, which, excluding taxes and governmental assessments, is \$20.29. The BUS service is available on a month to month basis.

The tariff also discloses the one time service activation charge of \$45.00, and information regarding the wireless local loop equipment which may be leased for \$5.00 monthly.

The tariff includes provisions regarding ACC's proposed deposit, which will not exceed \$500.00 and is based on the customer's credit history. The tariff states that no deposit will be required if the customer elects toll blocking.

The tariff also includes a brief description of the steps that the Company will take in order to meet a customer's request for service in an area in which there is not adequate coverage, and the associated cost to the customer, if any, of each step.

Areas in Which the BUS is Available and Local Calling Scope

Included in ACC's proposed tariff is a list of exchanges in which the BUS service is available and the corresponding local calling areas.

Disconnection of Service

ACC has included in its Customer Service Agreement its commitment to providing a minimum of 5 business days' written notice prior to disconnection of service, and notes that the Company will not disconnect service on a Saturday, Sunday or United States legal holiday [Service Agreement Section 2(d)]. The disconnection provisions included in ACC's tariff are consistent with those required of other ETCs in Minnesota.

Availability of Commission to Advocate for BUS Customers and the Commission's Right to Investigate

ACC notes in its Customer Service Agreement the availability of the Minnesota Public Utilities Commission for customer advocacy in case of a dispute or complaint related to the BUS offering. [Section 4(e)]. The tariff includes the address and 800-telephone number of the Minnesota Public Utilities Commission Consumer Affairs Office.

Record-Keeping

ACC has set forth in its tariff the following commitment:

The Company will create and make available to the Commission upon request a record of the instances which a potential customer requests BUS service and the Company is unable to provide BUS service within 30 days. The records will include any remedy proposed by the Company and offered or provided to the customer. If the Company determines there is no possibility of providing service without constructing a new cell site, it will report to the Commission the proposed cost of construction, the Company's position on whether the request for service is reasonable, and whether high-cost funds should be expended on the request.

Notification Upon Changes

ACC's proposed BUS CSA includes provisions for notice to customers, the Commission, and the Department 20 days prior to implementing any increase to the BUS service rate or other significant changes to terms and conditions of the Company's BUS offering (Section 3).

The BUS CSA also provides that any "withdrawal of the BUS Rate Plan to a geographic area or to a group of customers shall be made only with prior Commission approval."¹³

In summary, the Department believes that the Tariff and BUS CSA filed by ACC are adequate, and are consistent with those filed by similarly situated ETCs in Minnesota.

- *Public Interest*

The FCC rules require that a state commission designate additional qualifying ETCs for areas served by a rural telephone company *only if the state commission finds that the designation of more than one carrier is in the public interest.* (emphasis added)

The FCC does not define the "public interest" factors that the state Commission may or should consider when designating an additional ETC in a rural service area, but has left the public interest determination and the relevant factors which constitute public interest to the discretion of the states themselves.

In previous dockets designating competitive ETCs in rural areas, the Commission has found that such designations are consistent with Minnesota's telecommunications goals of supporting universal service, maintaining just and reasonable rates, promoting customer choice, encouraging fair and reasonable competition for local exchange telephone service in a competitively neutral regulatory manner, and maintaining or improving quality of service.¹⁴

In addition to the level of demonstrated intent by the petitioner to invest in network infrastructure in Minnesota and the general public interest benefits of competition, the Commission has chosen, in previous dockets designating ETCs in Minnesota, to consider affordability and service quality as part of its public interest analysis.

Affordability

As noted in the Department's August 4 Comments, ACC has priced its BUS offering at a flat monthly rate of \$20.29 with unlimited local usage, with an activation charge of \$45.00, both of which fit within the range of basic residential rates charged by the incumbent local exchange carriers within whose service areas ACC proposes to serve.

The Department finds the proposed monthly rate of \$20.29 for the BUS offering (\$25.29 including the lease of Company equipment) and the connection charge of \$45.00 reasonable and recommends that the Commission find the rates affordable.

¹³ Proposed BUS CSA Section 3.

¹⁴ Minn. Stat. 237.011

Service Quality

ACC claims that it is capable of and willing to provide quality service to its customers at affordable rates. ACC has included provisions in its proposed Tariff and BUS CSA consistent with those required of other competitive ETCs, to ensure consistent and continuing service quality.

- *ACC's Proposed Redefinition of Rural LEC Service Areas*

The Department provided detail regarding ACC's request for redefinition of certain rural LEC service areas in its initial comments. As stated, the Department finds no evidence that the population densities of the portions of each exchange in which ACC proposes to serve as an ETC are significantly higher (and hence presumably lower-cost) or significantly different from those portions of each exchange which ACC proposes to exclude from its service area. The Department notes also that, to the extent rural ILECs wish to further disaggregate or alter the way in which they have targeted the available universal service support within their service areas, they may petition the Commission to do so.

- *Request for Waiver of Minnesota Rule 7811.1400 Subpart 2*

The Department's initial comments addressed the above captioned waiver. The Department recommends approval of the request.

V. COMMISSION ALTERNATIVES

A. With Regard to ACC's Petition for Designation as an ETC:

1. Find that ACC has made a credible showing, supported by facts and commitments, of its capability and intent to provide and advertise an affordable, quality offering, including the nine federally supported services, throughout its proposed service area, and that its designation is in the public interest. Approve ACC's petition for designation as an ETC.
2. Find that ACC has not provided sufficient evidence of its capability and intent to provide and advertise an affordable, quality offering, including the nine federally supported services, throughout its proposed service area, or that its designation is not in the public interest. Deny ACC's petition for designation as an ETC.
3. Approve ACC's Petition with conditions or modifications.

- B. With Regard to ACC's Petition to Redefine the Service Areas of Paul Bunyan Rural Telephone Cooperative and Red River Rural Telephone Association. (collectively, the ILECs)
1. Approve the petition to redefine the ILECs' service areas, and petition the FCC for concurrence.
 2. Deny the Petition to redefine the ILECs' service areas.

VI. RECOMMENDATION

The Department recommends Alternatives A1 and B1.

Find that ACC has made a credible showing, supported by facts and commitments, of its capability and intent to provide and advertise an affordable, quality offering, including the nine federally supported services, throughout its proposed service area, and that its designation is in the public interest. Approve ACC's petition for designation as an ETC. Approve the petition to redefine the service areas of Paul Bunyan Rural Telephone Cooperative and Red River Rural Telephone Association at the wire center level, and petition the FCC for concurrence.

/sm

STATE OF MINNESOTA)
COUNTY OF RAMSEY) ss

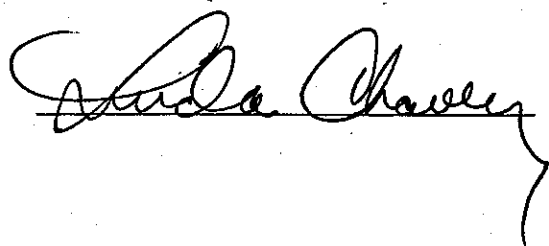
AFFIDAVIT OF SERVICE

I, **Linda Chavez**, on the **5th** day of **December, 2005**, served the attached
Minnesota Department of Commerce – Comments

Docket Number(s): **PT6458/M-05-1122**

- X by depositing in the United States Mail at the City of St. Paul, a true and correct copy thereof, properly enveloped with postage prepaid.
- X by personal service
 - by express mail
 - by delivery service

to all persons at the addresses indicated below &/or on the attached list:



PT6458/M-05-1122

Burl W Haar Exec Sec
MN Public Utilities Commission
350 Metro Square Bldg
121 7th Place E
St Paul MN 55101

Linda Chavez (4)
MN Dept of Commerce
85 7th Place E Ste 500
St Paul MN 55101-2198

Julia Anderson
Attorney General's Office
1400 Bremer Tower
445 Minnesota St
St Paul MN 55101-2131

Curt Nelson
Attorney General's Office-RUD
900 Bremer Tower
445 Minnesota Street
St Paul MN 55101

Mark J Ayotte
Briggs and Morgan
2200 IDS Ctr
80 S Eighth St
Minneapolis MN 55402

M Cecilia Ray
Moss & Barnett
4800 S Seventh St
Minneapolis MN 55402

Thomas A Coates
American Cellular Corp
14201 Wireless Way
Oklahoma City OK 73134-2512

Kevin Saville
Citizens/Frontier Communications
2378 Wilshire Blvd
Mound MN 55364

Exhibit D

January 19, 2006 Briefing Papers of the Minnesota Public Utilities Commission Staff

Minnesota Public Utilities Commission
Staff Briefing Papers

Meeting Date: **January 19, 2006**..... **Agenda Item #

Company: **American Cellular Corporation**

Docket No. **Docket No. PT6458/M-05-1122**

In the Matter of American Cellular Corporation's Petition for Designation as
 an Eligible Telecommunications Carrier (ETC) and Redefinition of Rural
 Telephone Company Service Area Requirement

Issues: A. Should the Commission approve ACC's ETC petition?
 B. Should the Commission approve ACC's petition for the redefinition of
 service areas?

Staff: Lillian A. Brion.....651-201-2213; lillian.brion@state.mn.us

Relevant Documents

Staff Briefing Papers for the October 13, 2005 meetingOctober 13, 2005 (#15)
 ORDER REQUIRING SUPPLEMENTARY FILINGOctober 25, 2005 (#16)
 ACC's Supplemental FilingNovember 7, 2005 (#17)
 Comments
 Citizens December 2, 2005 (#21)
 DOC December 2, 2005 (#22)
 Reply Comments
 ACC December 21, 2005 (#23)

The attached materials are workpapers of the Commission Staff. They are intended for use by the Public Utilities Commission and are based upon information already in the record unless noted otherwise.

This document can be made available in alternative formats (i.e., large print or audio tape) by calling (651) 201-2202 (voice) or 1-800-627-3529 (TTY relay service).

Statement of the Issues

- A. Should the Commission approve ACC's petition for ETC designation?
- B. Should the Commission approve ACC's petition for the redefinition of service areas?

Background

On July 5, 2005, American Cellular Corporation (ACC) filed a petition for designation as an eligible telecommunications carrier (ETC) for the purpose of receiving support from the federal universal service fund. In conjunction with its ETC petition, ACC requested that the Commission redefine, at the wire center level, certain of the service areas of the rural incumbent local exchange carriers in areas in which ACC proposes to serve.

The Commission met on October 13, 2005 and decided not to apply to ACC's filing the new FCC conditions for ETC designation contained in the *FCC Report and Order in CC Docket 96-45, FCC 05-46*. Rather, the Commission concluded that ACC's ETC application should be reviewed in a manner consistent with the designation requirements used in previous ETC cases.

The Commission's Order dated October 25, 2005 found that the Company's filing was incomplete at that time and directed ACC "to make a supplemental filing with the Commission, containing information already given to the Department pursuant to a Department information request and any additional information the Company may deem relevant."

On November 7, 2005, ACC submitted a supplemental filing.

At the request of the Department of Commerce (Department or DOC), the Commission extended the deadline for comments and replies to December 5 and December 20, 2005, respectively.

On December 5, 2005, Citizens and the DOC filed comments. Citizens recommends denial, while the DOC recommends approval of ACC's ETC petition. ACC filed reply comments on December 21, 2005.

ACC's Supplemental Filing

In addition to information contained in its earlier filing, ACC's supplemental filing responded to the outstanding ETC requirements as discussed in the initial Staff Briefing Papers (*see pages 10-13 of the October 13, 2005 Briefing Papers*) as follows:

Facilities

ACC provided a list and description of its existing network facilities and signal coverage in each of the areas in which ETC designation is sought. *Supp. Petition at 1-3 and also Exhibit 1.*

Commitment to Provide Service upon Reasonable Customer Request

ACC has committed to undertake various steps to provide service to customers within the designated service areas in the event they do not receive adequate signal coverage at their primary residence. *Supp. Petition at 3-5.*

ACC has also identified six new facility construction projects that are intended to expand network coverage in the areas of Crane Lake, Nett Lake, Babbitt, Silver Bay, Lutsen and Grand Marais. *Supp. Petition at 6-7, also Exhibits 5 and 6.*

Description of Basic Universal Service (BUS) Offering

ACC's filing includes a description of a BUS offering, including unlimited local usage and expanded local calling areas. *Supp. Petition at 5.* The BUS offering is also described in the informational tariff (*see Exhibit 2*) and Customer Service Agreement (*see Exhibit 3*).

Advertising Plan

ACC also filed an updated advertising plan describing the availability of its service offerings, including that of Lifeline and Link-Up for qualified consumers. *Supp. Petition at 6, also Exhibit 4.*

Informational Tariff and Customer Service Agreement

The informational tariff (*Supp. Petition, Exhibit 2*) describes the supported services, features, pricing and local calling areas for the BUS. ACC also revised its Customer Service Agreement (*Supp. Petition, Exhibit 3*) to include customer service and consumer protection provisions.

Parties' Comments

Citizens

Citizens recommends Commission denial of ACC's ETC petition, unless ACC demonstrates compliance with all the Commission's criteria and standards for ETC designation. According to Citizens, ACC has failed to show that it will have the ability to provide service to all customers in the area in which it seeks designation. Citizens also claims that ACC's filing does not comply with the ETC designation criteria recently adopted by the Commission by not providing a two-year network improvement plan, a commitment for specific start and completion dates for the promised construction projects, and other ETC eligibility requirements by the FCC. *See Citizens Comments at 4-6.*

DOC

The DOC recommends Commission approval of ACC's ETC petition. The Department suggests that the Commission find that ACC has made a credible showing, supported by facts and commitments, of its capability and intent to provide and advertise an affordable, quality offering, including the nine federally supported services throughout its proposed service area, and that its designation is in the public interest. *DOC at 5-11.*

The Department also recommends approval of ACC's petition for the redefinition of the service areas of Paul Bunyan and Red River at the wire center, and the submission of the redefinition petition to the FCC for concurrence. *DOC at 10.*

ACC

ACC states that Citizens wrongly contends that ACC's petition must follow the new ETC designation standards adopted by the Commission in Docket No. P999/M-05-1169, *In the Matter of a Commission investigation to Consider Adopting the Federal Communication Commission's Standards for Designating Eligible Telecommunications Carriers*. According to ACC, the Commission had already determined that the new designation criteria established by the Commission in said docket will not be applied retroactively to ACC's petition.

ACC does not contest that the new annual ETC certification requirements will apply to ACC, and that upon ETC designation, the Company, as well as all other designated ETCs in Minnesota, will submit the annual requirements for certification beginning in June 2006.

ACC claims that, with its supplemental filing, it has now fully satisfied the requirements for ETC designation. *ACC Reply Comments at 4-7.* ACC asks that the Commission grant the requested ETC designation.

Staff Analysis

A. On ACC's Petition for ETC Designation

With the Supplemental Petition, ACC has shown that it meets the requirements initially discussed on pp. 10-14 of the Staff Briefing Papers for the October 13, 2005 Commission meeting, as follows:

Threshold eligibility requirements

- It is a common carrier;
- It provides each of the nine supported services;
- It will offer and advertise the availability of, and charges for the supported services throughout the service area; and
- Its designation is in the public interest.

Additional requirements from ETC applicants to demonstrate that they have the intent and capability to provide the supported services

- A list and description of the facilities used to provide services throughout the service area for which designation is sought;
- A description of how the applicant will fulfill its obligation to provide service upon a customer's reasonable request.
- A detailed description of at least one "basic" affordable universal service offering with all the supported services.
- A formal plan for advertising the offering and availability of Lifeline, LinkUp and the basic universal service offering throughout the proposed service area.
- A service quality plan, including commitments and/or disclosures regarding customer service, dispute resolution policies, network maintenance policies, procedures for resolving service interruptions, and any associated customer remedies, and billing, payment, deposit and disconnection policies and procedures.
- An informational tariff, or customer service agreement that shows the rates, service plans, cost of related equipment and installation charges, and all terms and conditions related to the universal service offering.

Staff agrees with ACC and the DOC that the Commission should approve ACC's ETC petition. Staff believes that the Company meets all the requirements previously required from other ETC applicants in the past.

If the Commission grants ACC's ETC petition, Staff also agrees that the Commission should certify to the FCC that ACC will use all federal high-cost support it will receive for the provision, maintenance, and upgrading of facilities and services for which the support is intended pursuant to 47 U.S.C. § 254(e). The Commission had submitted to the FCC its Annual Certification for the other ETCs before the October 1, 2005 deadline (*Docket No. P999/M-05-1185*). In past cases, the Commission supplemented the annual certification to the FCC with certification for newly-designated ETCs.

B. ACC's Redefinition Petition

Regarding the redefinition of service areas, ACC's initial filing requested for the redefinition of the service areas of Paul Bunyan Rural Telephone Cooperative and Red River Rural Telephone Association because its FCC license restricts its service coverage to some portions of those companies' service areas. ACC seeks conditional ETC designation in those areas pending approval of the redefinition of the service areas by both the Commission and the FCC. At the Commission's October 13, 2005 meeting, consideration of this issue was deferred until after receipt of ACC's supplemental filing.

Staff agrees with the DOC and ACC that the proposed redefinition on individual wire centers of Paul Bunyan and Red River is consistent with the Commission's previous decisions in similar cases as well as with the FCC's recent rulings on the subject. Thus, Staff also recommends approval of the Company's redefinition proposal.

Commission Options

A. On ACC's Petition for ETC Designation

- A.1. Find that ACC meets the Commission's ETC requirements and approve ACC's petition for ETC designation. Also, certify to the FCC that ACC will use all federal high-cost support it will receive for the provision, maintenance, and upgrading of facilities and services for which the support is intended pursuant to 47 U.S.C. § 254(e).
- A.2. Deny ACC's petition for ETC designation.

B. On ACC's Petition for Service Area Redefinition

- B.1. Find that ACC's redefinition petition meets the Commission's requirements and approve ACC's petition to redefine the service areas of Paul Bunyan Rural Telephone Cooperative and Red River Rural Telephone Association at the wire center level. Also, petition the FCC for concurrence.
- B.2. Deny ACC's petition to redefine the service areas.

Staff Recommendations

Staff recommends Options A.1 and B.1.

Exhibit E

**Minnesota PUC's February 3, 2006 Order Granting Eligible Telecommunications
Carrier Designation and Redefining Service Area Requirement**

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendraye
Marshall Johnson
Ken Nickolai
Thomas Pugh
Phyllis A. Reha

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of American Cellular
Corporation's Petition for Designation as an
Eligible Telecommunications Carrier and
Redefinition of Rural Telephone Company
Service Area Requirement

ISSUE DATE: February 3, 2006

DOCKET NO. PT-6458/M-05-1122

**ORDER GRANTING ELIGIBLE
TELECOMMUNICATIONS CARRIER
DESIGNATION AND REDEFINING
SERVICE AREA REQUIREMENT**

PROCEDURAL HISTORY

On July 5, 2005, American Cellular Corporation (ACC or Company) filed a petition for designation as an eligible telecommunications carrier (ETC) for purposes of obtaining universal service support from federal universal service funds. ACC requested ETC designation in the service areas of certain rural telephone companies which ACC serves in their entirety. ACC also requested ETC designation in rural telephone companies' wire centers where ACC does not serve the entire study area.

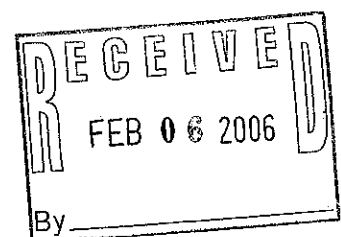
On October 23, 2005, the Commission found ACC's application to be incomplete and directed ACC to supplement its filing.

On November 7, 2005, ACC filed supplementary information.

On December 2, 2005, the Commission received comments from Citizens Telecommunications Company of Minnesota, LLC (Citizens), and the Minnesota Department of Commerce (the Department).

On December 21, 2005, ACC filed reply comments.

The Commission met on January 19, 2006, to consider this matter.



FINDINGS AND CONCLUSIONS

I. Background

The federal Telecommunications Act of 1996 (the Act)¹ was designed to open the nation's telecommunications markets to competition. Its universal service provisions were designed to keep competition from driving rates to unaffordable levels for "low-income consumers and those in rural, insular, and high cost areas"² by subsidizing those rates. Only carriers that have been designated ETCs are eligible to receive these subsidies.³

Congress directed the Federal Communications Commission (FCC) to work with the states through a Federal-State Joint Board to overhaul existing universal service support systems.⁴ The Act required the FCC to determine which services qualified for subsidies. It authorized the states to determine which carriers qualified for universal service funding. The Act's term for these carriers was "eligible telecommunications carriers" (ETCs).⁵

II. The Legal Standard

In its October 25, 2005 Order in this matter, the Commission determined that it would review ACC's application for ETC status based on the ETC standards in effect at the time of the Company's initial filing (July 5, 2005) rather than based on requirements adopted by the Commission subsequent to that filing.⁶

¹ Pub. L. No 104-104, 110 Stat. 56, codified throughout title 47, United States Code.

² 47 U.S.C. § 254(b)(3).

³ 47 C.F.R. § 54.201(a)(1).

⁴ 47 U.S.C. § 254.

⁵ 47 U.S.C. § 214(e).

⁶ See *In the Matter of a Commission Investigation to Consider Adopting the Federal Communications Commission's Standards for Designating Eligible Telecommunications Carriers*, Docket No. P-999/M-05-1169, ORDER ADOPTING REQUIREMENTS FOR DESIGNATING ELIGIBLE TELECOMMUNICATIONS CARRIERS, AS MODIFIED (October 31, 2005).

A. ETC Designation

Applications for ETC status are governed by federal and state law.⁷ The Act's § 214 requires an ETC to offer certain designated services throughout its ETC-designated service area, use its own facilities or a combination of its own facilities and resale of another carrier's service in providing these services, and advertise the availability and price of these services.⁸ While the list of designated services may change over time,⁹ FCC rule 47 C.F.R. § 54.101(a) currently designates the following services:

- voice grade access to the public switched network
- local usage
- touch-tone service or its functional equivalent
- single-party service
- access to emergency services, including 911 and enhanced 911
- access to operator services
- access to interexchange services
- access to directory assistance
- toll limitation for qualifying low-income customers

B. Service Area Disaggregation

A carrier must offer and advertise the required basic services throughout any "service area" for which the carrier is designated an ETC. While state commissions establish service area boundaries, those boundaries typically coincide with the service territory boundaries or exchange area boundaries of incumbent landline carriers. The Act defines "service area" as:

a geographic area established by a State commission ... for the purpose of determining universal service obligations and support mechanisms. In the case of an area served by a rural telephone company, "service area" means such company's "study area" unless and until the Commission and the States, after taking into account recommendations of a Federal-State Joint Board instituted under section 410(c) of this title, establish a different definition of service area for such company.¹⁰

⁷ 47 U.S.C. §§ 254, 214; 47 C.F.R. § 54.101; Minn. Rules parts 7811.1400 and 7812.1400.

⁸ 47 U.S.C. § 214(e)(1).

⁹ 47 U.S.C. § 254(c)(1).

¹⁰ 47 U.S.C. § 214(e)(5); 47 C.F.R. § 54.207.

For rural telephone companies, the Act established a default definition of "study area" that comprises the company's entire service area within a state. This default definition assigns all of a rural telephone company's exchanges to one large service area.

But the Act also provides for "redefining" a service area to divide it into multiple areas for universal service purposes. In considering whether to disaggregate a rural telephone company's service territory, the state and the FCC consider three factors identified by the Joint Board:¹¹ 1) the risk of "cream skimming," 2) the regulatory status accorded rural telephone companies under the 1996 Act, and 3) any additional administrative burdens that might result from the disaggregation.¹²

A state may disaggregate a non-rural telephone company's service area at its own discretion. But a rural telephone company's service area may not be disaggregated without the mutual consent of the state and the FCC.¹³

III. The Company's Petition

A. ETC Designation

ACC sought immediate ETC designation for the entire study areas or redefined wire centers served by Qwest, Arrowhead, Arvig, Benton, Blackduck, Callaway, CenturyTel of Minnesota, CenturyTel of Northwest Wisconsin, Citizens/Frontier, Consolidated, Crosslake, Eagle Valley, East Otter Tail, Emily, Federated Telephone, Federated Utilities, Gardonville, Johnson, Loretel, Lowry, Melrose, Mid-State, Midwest, Northern, Osakis, Park Region, Peoples, Rothsay, Runestone, Starbuck, Twin Valley - Ulen, United, Upsala, Valley, West Central, Wilderness, and Wolverton.

According to ACC, it satisfies each of the following requirements for ETC designation because

1. it is a Common Carrier;
2. it provides each of the nine supported services;
3. it will offer and advertise the availability of, and charges for, the supported services;
4. it will provide services throughout its designated areas; and
5. designating ACC as an ETC will serve the public interest.

ACC indicated that it is willing to comply with the requirements imposed by the Commission on previously-designated wireless ETCs like Midwest Wireless, RCC Minnesota and Western Wireless.

¹¹ 47 C.F.R. § 54.207(c)(1)(ii).

¹² See *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Recommended Decision, 12 FCC Rcd 87, 179-80, ¶¶ 172-74 (1996) (Joint Board Recommendation).

¹³ 47 C.F.R. § 54.207(c).

The Company also included a copy of its proposed advertising plan and a list of service plans eligible for USF. Among its service plans is a Basic Universal Service Offering with unlimited local usage at \$20.29 per month.

ACC also requested that the Commission certify ACC's use of support effective on the date of the Company's ETC designation. The Company stated that this would allow it to receive high-cost universal service support starting on the date of the ETC designation.

B. Service Area Redefinition

Finally, ACC requested that the Commission redefine the Company's service area standard from the study area to the wire center level in areas served by the Paul Bunyan Rural Telephone Cooperative (Paul Bunyan) and Red River Rural Telephone Association (Red River) to enable the Company to meet the federal ETC requirements under 47 U.S.C. § 214(e).

IV. ACC's Supplemental Filing Regarding ETC Designation

At the October 13, 2005 hearing on this matter, the Department stated that ACC's initial filing was incomplete in several respects but that ACC had subsequently provided it with adequate information in response to Information Requests. In the Department's view, the information provided it by ACC would, if filed with the Commission, satisfy the ETC filing requirements.

In its October 25, 2005 Order, the Commission found that the information in question is not part of the record of this matter and that ACC's filing was incomplete. The Commission directed ACC to file the information with the Commission.

On November 7, 2005, ACC's supplemental filing responded to the outstanding ETC requirements as follows:

- **Facilities:** ACC provided a list and description of its existing network facilities and signal coverage in each of the areas in which ETC designation is sought.
- **Commitment to Provide Service upon Reasonable Customer Request:** ACC committed to undertake various steps to provide service to customers within the designated service areas in the event they do not receive adequate signal coverage at their primary residence. ACC also identified six new facility construction projects that are intended to expand network coverage in the areas of Crane Lake, Nett Lake, Babbitt, Silver Bay, Lutsen and Grand Marais.
- **Description of Basic Universal Service (BUS) Offering:** ACC described a BUS offering, including unlimited local usage and expanded local calling areas. The BUS offering is also described in the informational tariff and Customer Service Agreement.
- **Advertising Plan:** ACC updated its advertising plan describing the availability of its service offerings, including that of Lifeline and Link-Up for qualified consumers.

- **Informational Tariff and Customer Service Agreement:** The Company provided an informational tariff describing the supported services, features, pricing and local calling areas for the BUS. ACC also filed a revised Customer Service Agreement to include customer service and consumer protection provisions.

V. Positions of the Parties Regarding ETC Designation

A. The Department

The Department stated that ACC has made a credible showing, supported by facts and commitments, of its capability and intent to provide and advertise an affordable, quality offering, including the nine federally supported services throughout its proposed service area, and that its designation is in the public interest. The Department recommended Commission approval of ACC's ETC petition.

B. Citizens

Citizens recommended that the Commission deny ACC's ETC petition unless ACC demonstrates compliance with all the Commission's criteria and standards for ETC designation. According to Citizens, ACC has failed to show that it will have the ability to provide service to all customers in the area in which it seeks designation. Citizens also claims that ACC's filing does not comply with the ETC designation criteria recently adopted by the Commission by not providing a two-year network improvement plan, a commitment for specific start and completion dates for the promised construction projects, and other ETC eligibility requirements by the FCC.

VI. Commission Analysis and Action Regarding Request for ETC Designation

A. Newly Adopted ETC Designation requirements Inapplicable

In its October 31, 2005 Order adopting the FCC's new standards for designating ETCs, the Commission made it clear that the newly adopted standards did not apply to petitions for ETC status that had already been filed with the Commission.¹⁴ At page 9, the Commission stated:

The Commission will apply the [new criteria], pursuant to the decisions discussed above in this Order, to petitions filed with the Commission **after** the date of this Order [Emphasis supplied.]

¹⁴ *In the Matter of a Commission Investigation to Consider Adopting the Federal Communications Commission's Standards for Designating Eligible Telecommunications Carriers*, Docket No. P-999/M-05-1169, ORDER ADOPTING FCC REQUIREMENTS FOR DESIGNATING ELIGIBLE TELECOMMUNICATIONS CARRIERS, AS MODIFIED (October 31, 2005).

Moreover, in its October 25, 2005 Order in this matter the Commission specifically addressed the question whether ACC's petition would be required to meet the FCC's new standards or the FCC adopted by the Commission as of the date ACC filed its request (July 5, 2005). In that Order the Commission stated:

Prior to the return of the current matter for review, the Commission will issue an Order in Docket No. P-999/M-05-1169 adopting certain Federal Communications Commission (FCC) requirements regarding the designation of eligible telecommunications carriers (ETCs). The Commission finds it appropriate, therefore, to clarify its intent that when ACC's application comes back before the Commission, the Commission will continue its review based on the Commission standards existing at the time of ACC's initial filing, July 5, 2006.

B. Threshold Requirements

The Commission finds that ACC has shown that it meets the threshold eligibility requirements:

- it is a common carrier;
- it provides each of the nine supported services;
- it will offer and advertise the availability of, and charges for the supported services throughout the service area; and
- its designation is in the public interest.

C. Adequacy of ACC's Ability and Commitment to Serve

Citizens has claimed that federal law requires that ACC provide universal service to all customers in the areas for which it seeks ETC status. The FCC, however, has repeatedly held that an applicant for ETC designation is not required to demonstrate that it currently provides ubiquitous service throughout its requested service areas. Instead, the FCC has stated that an applicant must merely demonstrate an ability and commitment to provide service upon reasonable request.¹⁵

In this case, ACC has explained in detail its capabilities and willingness to provide service in the requested service areas consistent with the obligations of an ETC. The Company has described its existing network facilities and has demonstrated the extent of its signal coverage in each of the areas in which designation as an ETC is requested. Moreover, ACC has committed to implementing a multi-step service extension process to provide service to customers in a designated area in the event they do not receive adequate signal coverage and stated that if it determines there is no possibility of providing service without constructing a new cell site, it will report to the Commission the proposed cost of construction, the Company's position on whether the request for service is reasonable, and whether high-cost funds should be expended on the request.

¹⁵ See *In the Matter of Federal-State Joint Board on Universal Service Western Wireless Corporation Petition for Preemption of an Order of the South Dakota Public Utilities Commission*, CC Docket 96-45, Declaratory Ruling, FCC 00-248, 17 (rel. Aug. 10, 2000).

Consistent with previous Commission Orders in which the Commission has accepted these types of service commitments as sufficient for purposes of granting ETC designation therefore the Commission determines that ACC has adequately shown its ability and willingness to serve customers in the designated areas.

Based on this analysis and findings, the Commission concludes that the Company meets the Commission's requirements for designation as an eligible telecommunications carrier (ETC).

VII. Redefinition of Service Areas

A. ACC's Request

ACC requested the redefinition of the service areas where it will be required to serve in the exchanges served by the Paul Bunyan Rural Telephone Cooperative (Paul Bunyan) and Red River Rural Telephone Association (Red River) because its FCC license restricts its service coverage to some portions of those companies' service areas. ACC sought conditional ETC designation in those areas pending approval of the redefinition of the service areas by both the Commission and the FCC.

B. The Department's Comments

The Department initially recommended that the Commission should not start consideration of this issue until after ACC made it's the supplemental filing. The Department also noted, however, that it found no evidence of deliberate or unintentional cream skimming in ACC's redefinition proposal.

After ACC filed its supplemental comments, the Department recommended that the Commission approve the Company's petition for redefinition and submit the redefinition to the FCC for concurrence.

C. Commission Analysis and Action

None of the parties, including Minnesota Independent Coalition (MIC) and Citizens, the interveners, have objected to ACC's request to redefine the service area requirement in the exchanges served by Paul Bunyan and Red River.

In order to redefine the service area requirement, both the Commission and the FCC are required to consider three factors set forth in recommendations made by the Federal-State Joint Board on Universal Service. The three considerations are: 1) the risk that an ETC applicant will seek designation only in low-cost, high-support areas, a practice known as "cream skimming"; 2) any effect redefinition may have on the rural telephone company's regulatory status; and 3) any additional administrative burdens that may result from redefinition.

Based on the record established in this case, the Commission finds that ACC's request for redefinition does not create a risk of either intentional cream skimming or any unintentional effects of cream skimming, service area redefinition will have no effect upon Paul Bunyan's or Red River's regulatory status, and redefinition will not create any administrative burdens

The Commission will therefore approve the Company's proposal and support the Company's petition to the FCC to concur in the redefinition of the service areas of Paul Bunyan Rural Telephone Cooperative and Red River Rural Telephone Association to the individual wire center level..

ORDER

1. Based on a finding discussed above in Section V of this Order that American Cellular Corporation (ACC or the Company) meets the Commission's requirements for designation as an eligible telecommunications carrier (ETC), the Commission hereby approves the Company's petition for ETC designation.

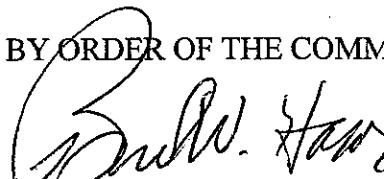
Consistent with that finding and approval, the Commission certifies to the FCC that ACC will use all the federal high-cost support that it will receive for the provision, maintenance and upgrading of facilities and services for which the support is intended pursuant to 47 U.S.C. § 254(e).

2. Based on a finding discussed above at Section VI of this Order that ACC's petition meets the Commission's requirements for redefining service areas, the Commission hereby approves ACC's petition to redefine the service areas of Paul Bunyan Rural Telephone Cooperative and Red River Rural Telephone Association at the wire center level.

Consistent with that finding and approval, the Commission will support the Company's petition to the FCC for concurrence.

3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION



Burl W. Haar
Executive Secretary

(S E A L)

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